NAVAL WAR COLLEGE

INTERNATIONAL LAW DOCUMENTS

WITH NOTES AND INDEX

1924

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INTERNATIONAL AGREEMENTS

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INDEX

1924

WASHINGTON
GOVERNMENT PRINTING OFFICE
1926

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PREFACE

The discussions upon questions of international law before the class of 1924 at the Naval War College, Newport, R. I., were, as in recent years, conducted by George Grafton Wilson, LL. D., professor of international law in Harvard University.

The problems submitted to the class and their subsequent discussion required consultation of many documents, treaties, opinions, and writings. Some of the documents and opinions have been published by the Naval War College in earlier volumes. In this volume for 1924 there are published some of the ratified international agreements now binding upon the United States or upon other States, as well as some of the proposed but unratified agreements which have attracted international notice.

C. S. Williams,
Rear Admiral, U. S. Navy,
President, Naval War College.

May 28, 1925.

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INTERNATIONAL LAW DOCUMENTS—INTERNATIONAL AGREEMENTS

PRELIMINARY NOTE.—In the Naval War College publications on international law issued since 1914 many documents bearing upon international relations and problems which may be within the scope of naval operations have been printed. The volumes of 1915 and 1916 gave particular attention to the documents relating to neutrality, that of 1917 to the breaking of diplomatic relations and the opening of hostilities, and that of 1918 to the conduct and conclusion of hostilities, while the volumes of 1919 and 1920 contained the treaties of peace with Germany, Austria, and Hungary. The volume for 1921 presented documents of the Washington Conference on the Limitation of Armaments, particularly as concerned naval relations.

As many decisions involving maritime affairs and the conduct of hostilities were rendered in national and international tribunals during and subsequent to the World War, the volumes of 1922 and 1923 gave the texts of some of these decisions.

The attempts to stabilize conditions after the World War led to the negotiation of international agreements of a type somewhat different from those of the prior period, and some of these which have been ratified and are operative, as well as some which have been proposed and may or may not become operative, are printed in this volume for 1924. Among the most significant of these are the ratified treaties on the limitation of armament and the proposed Geneva protocol for the pacific settlement of international disputes. There are also printed some other international agreements which bear upon maritime relations and jurisdiction.

The eighteenth amendment to the Constitution of the United States, the prohibition amendment, and the legislation passed to put it into operation somewhat changed the ordinary practice in regard to the exercise of authority within jurisdictional waters, leading to the negotiation of subsequent treaties admitting a sliding scale of distance within which the coast authorities under specified conditions might act.

Special international agreements have changed the status of areas in such fashion as to be significant, and types of these have also been inserted, such as those relating to mandated and neutralized areas.

International agreements relating to many other matters not commonly covered in early treaties have been made since the World War, as well as new agreements upon matters previously covered. The agreements have been so numerous and some of them so detailed in character that it is not possible to give them within available space.

LIMITATION OF ARMAMENT

TREATY BETWEEN THE UNITED STATES, THE BRITISH EMPIRE, FRANCE, ITALY, AND JAPAN[1]—LIMITATION OF NAVAL ARMAMENT[2]

[Signed at Washington, February 6, 1922; ratification advised by the Senate, March 29, 1922; ratified by the President, June 9, 1923; ratifications deposited with the Government of the United States, August 17, 1923; proclaimed, August 21, 1923]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas a Treaty between the United States of America, the British Empire, France, Italy and Japan, agreeing to a limitation of naval armament, was concluded and signed by their respective plenipotentiaries at Washington on February 6, 1922, the original of which Treaty, in the English and French languages, is word for word as follows:

The United States of America, the British Empire, France, Italy and Japan;

Desiring to contribute to the maintenance of the general peace, and to reduce the burdens of competition in armament;

Have resolved, with a view to accomplishing these purposes, to conclude a treaty to limit their respective naval armament, and to that end have appointed as their Plenipotentiaries;

The President of the United States of America:

Charles Evans Hughes,
Henry Cabot Lodge,
Oscar W. Underwood,
Elihu Root,
citizens of the United States;

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[1] Treaty Series, No. 671.

[2] Discussions on the negotiation of this treaty will be found in the Naval War College International Law Documents, 1921, and in the official report, English and French, as well as the French text of the treaty, "Conference on the Limitation of Armament, November 12, 1921–February 6, 1922," published by the Government Printing Office. The report of the American delegation to the President will be found in the Naval War College Documents at page 257. This treaty was not ratified at the time of the publication of the Naval War College International Law Documents, 1921, but is now in force and ratified as here printed.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

The Right Honourable Arthur James Balfour, O. M., M. P., Lord President of His Privy Council;

The Right Honourable Baron Lee of Fareham, G. B. E., K. C. B., First Lord of His Admiralty;

The Right Honourable Sir Auckland Campbell Geddes, K. C. B., His Ambassador Extraordinary and Plenipotentiary to the United States of America;

and

for the Dominion of Canada:

The Right Honourable Sir Robert Laird Borden, G. C. M. G., K. C.;

for the Commonwealth of Australia:

Senator the Right Honourable George Foster Pearce, Minister for Home and Territories;

for the Dominion of New Zealand:

The Honourable Sir John William Salmond, K. C., Judge of the Supreme Court of New Zealand;

for the Union of South Africa:

The Right Honourable Arthur James Balfour, O. M., M. P.;

for India:

The Right Honourable Valingham Sankaranarayana Srinivasa Sastri, Member of the Indian Council of State;

The President of the French Republic:

Mr. Albert Sarraut, Deputy, Minister of the Colonies;

Mr. Jules J. Jusserand, Ambassador Extraordinary and Plenipotentiary to the United States of America, Grand Cross of the National Order of the Legion of Honour;

His Majesty the King of Italy:

The Honourable Carlo Schanzer, Senator of the Kingdom;

The Honourable Vittorio Rolandi Ricci, Senator of the Kingdom, His Ambassador Extraordinary and Plenipotentiary at Washington;

The Honourable Luigi Albertini, Senator of the Kingdom;

His Majesty the Emperor of Japan:

Baron Tomosaburo Kato, Minister for the Navy, Junii, a member of the First Class of the Imperial Order of the Grand Cordon of the Rising Sun with the Paulownia Flower;

Baron Kijuro Shidehara, His Ambassador Extraordinary and Plenipotentiary at Washington, Joshii, a member of the First Class of the Imperial Order of the Rising Sun;

Mr. Masanao Hanihara, Vice Minister for Foreign Affairs, Jushii, a member of the Second Class of the Imperial Order of the Rising Sun;

Who, having communicated to each other their respective full powers, found to be in good and due form, have agreed as follows:

CHAPTER I. GENERAL PROVISIONS RELATING TO THE LIMITATION OF NAVAL ARMAMENT

Article I

The Contracting Powers agree to limit their respective naval armament as provided in the present Treaty.

Article II

The Contracting Powers may retain respectively the capital ships which are specified in Chapter II, Part 1. On the coming into force of the present Treaty, but subject to the following provisions of this Article, all other capital ships, built or building, of the United States, the British Empire and Japan shall be disposed of as prescribed in Chapter II, Part 2.

In addition to the capital ships specified in Chapter II, Part 1, the United States may complete and retain two ships of the *West Virginia* class now under construction. On the completion of these two ships the *North Dakota* and *Delaware* shall be disposed of as prescribed in Chapter II, Part 2.

The British Empire may, in accordance with the replacement table in Chapter II, Part 3, construct two new capital ships not exceeding 35,000 tons (35,560 metric tons) standard displacement each. On the completion of the said two ships the *Thunderer*, *King George V*, *Ajax* and *Centurion* shall be disposed of as prescribed in Chapter II, Part 2.

Article III

Subject to the provisions of Article II, the Contracting Powers shall abandon their respective capital ship building programs, and no new capital ships shall be constructed or acquired by any of the Contracting Powers except replacement tonnage which may be constructed or acquired as specified in Chapter II, Part 3.

Ships which are replaced in accordance with Chapter II, Part 3, shall be disposed of as prescribed in Part 2 of that Chapter.

Article IV

The total capital ship replacement tonnage of each of the Contracting Powers shall not exceed in standard displacement, for the

United States 525,000 tons (533,400 metric tons); for the British Empire 525,000 tons (533,400 metric tons); for France 175,000 tons (177,800 metric tons); for Italy 175,000 tons (177,800 metric tons); for Japan 315,000 tons (320,040 metric tons).

Article V

No capital ship exceeding 35,000 tons (35,560 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

Article VI

No capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (406 millimetres).

Article VII

The total tonnage for aircraft carriers of each of the Contracting Powers shall not exceed in standard displacement, for the United States 135,000 tons (137,160 metric tons); for the British Empire 135,000 tons (137,160 metric tons); for France 60,000 tons (60,960 metric tons); for Italy 60,000 tons (60,960 metric tons); for Japan 81,000 tons (82,296 metric tons).

Article VIII

The replacement of aircraft carriers shall be effected only as prescribed in Chapter II, Part 3, provided, however, that all aircraft carrier tonnage in existence or building on November 12, 1921, shall be considered experimental, and may be replaced, within the total tonnage limit prescribed in Article VII, without regard to its age.

Article IX

No aircraft carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for or within the jurisdiction of, any of the Contracting Powers.

However, any of the Contracting Powers may, provided that its total tonnage allowance of aircraft carriers is not thereby exceeded, build not more than two aircraft carriers, each of a tonnage of not more than 33,000 tons (33,528 metric tons) standard displacement, and in order to effect economy any of the Contracting Powers may use for this purpose any two of their ships, whether constructed or in course of construction, which would otherwise

be scrapped under the provisions of Article II. The armament of any aircraft carriers exceeding 27,000 tons (27,432 metric tons) standard displacement shall be in accordance with the requirements of Article X, except that the total number of guns to be carried in case any of such guns be of a calibre exceeding 6 inches (152 millimetres), except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed eight.

Article X

No aircraft carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX, if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed ten. If alternatively the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited. In either case the number of anti-aircraft guns and of guns not exceeding 5 inches (127 millimetres) is not limited.

Article XI

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. Vessels not specifically built as fighting ships nor taken in time of peace under government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this Article.

Article XII

No vessel of war of any of the Contracting Powers, hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres).

Article XIII

Except as provided in Article IX, no ship designated in the present Treaty to be scrapped may be reconverted into a vessel of war.

Article XIV

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of con-

verting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6 inch (152 millimetres) calibre.

Article XV

No vessel of war constructed within the jurisdiction of any of the Contracting Powers for a non-Contracting Power shall exceed the limitations as to displacement and armament prescribed by the present Treaty for vessels of a similar type which may be constructed by or for any of the Contracting Powers; provided, however, that the displacement for aircraft carriers constructed for a non-Contracting Power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement.

Article XVI

If the construction of any vessel of war for a non-Contracting Power is undertaken within the jurisdiction of any of the Contracting Powers, such Power shall promptly inform the other Contracting Powers of the date of the signing of the contract and the date on which the keel of the ship is laid; and shall also communicate to them the particulars relating to the ship prescribed in Chapter II, Part 3, Section I (b), (4) and (5).

Article XVII

In the event of a Contracting Power being engaged in war, such Power shall not use as a vessel of war any vessel of war which may be under construction within its jurisdiction for any other Power, or which may have been constructed within its jurisdiction for another Power and not delivered.

Article XVIII

Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the Navy of any foreign Power.

Article XIX

The United States, the British Empire and Japan agree that the status quo at the time of the signing of the present Treaty, with regard to fortifications and naval bases, shall be maintained in their respective territories and possessions specified hereunder:

(1) The insular possessions which the United States now holds or may hereafter acquire in the Pacific Ocean, except (a) those adjacent to the coast of the United States, Alaska and the Panama Canal

Zone, not including the Aleutian Islands, and (b) the Hawaiian Islands;

(2) Hongkong and the insular possessions which the British Empire now holds or may hereafter acquire in the Pacific Ocean, east of the meridian of 110° east longitude, except (a) those adjacent to the coast of Canada, (b) the Commonwealth of Australia and its Territories, and (c) New Zealand;

(3) The following insular territories and possessions of Japan in the Pacific Ocean, to wit: the Kurile Islands, the Bonin Islands, Amami-Oshima, the Loochoo Islands, Formosa and the Pescadores, and any insular territories or possessions in the Pacific Ocean which Japan may hereafter acquire.

The maintenance of the status quo under the foregoing provisions implies that no new fortifications or naval bases shall be established in the territories and possessions specified; that no measures shall be taken to increase the existing naval facilities for the repair and maintenance of naval forces, and that no increase shall be made in the coast defences of the territories and possessions above specified. This restriction, however, does not preclude such repair and replacement of worn-out weapons and equipment as is customary in naval and military establishments in time of peace.

Article XX

The rules for determining tonnage displacement prescribed in Chapter II, Part 4, shall apply to the ships of each of the Contracting Powers.

CHAPTER II. RULES RELATING TO THE EXECUTION OF THE TREATY—DEFINITION OF TERMS

Part 1. Capital Ships Which May Be Retained by the Contracting Powers

In accordance with Article II ships may be retained by each of the Contracting Powers as specified in this Part.

Ships which may be retained by the United States

Name:	Tonnage	Name—Continued.	Tonnage
Maryland	32,600	New York	27,000
California	32,300	Texas	27,000
Tennessee	32,300	Arkansas	26,000
Idaho	32,000	Wyoming	26,000
New Mexico	32,000	Florida	21,825
Mississippi	32,000	Utah	21,825
Arizona	31,400	North Dakota	20,000
Pennsylvania	31,400	Delaware	20,000
Oklahoma	27,500		
Nevada	27,500	Total tonnage	500,650

On the completion of the two ships of the *West Virginia* class and the scrapping of the *North Dakota* and *Delaware*, as provided in Article II, the total tonnage to be retained by the United States will be 525,850 tons.

Ships which may be retained by the British Empire

Name:	Tonnage
Royal Sovereign	25,750
Royal Oak	25,750
Revenge	25,750
Resolution	25,750
Ramillies	25,750
Malaya	27,500
Valiant	27,500
Barham	27,500
Queen Elizabeth	27,500
Warspite	27,500
Benbow	25,000
Emperor of India	25,000
Iron Duke	25,000
Marlborough	25,000
Hood	41,200
Renown	26,500
Repulse	26,500
Tiger	28,500
Thunderer	22,500
King George V	23,000
Ajax	23,000
Centurion	23,000
Total tonnage	580,450

On the completion of the two new ships to be constructed and the scrapping of the *Thundrer*, *King George V*, *Ajax* and *Centurion*, as provided in Article II, the total tonnage to be retained by the British Empire will be 558,950 tons.

Ships which may be retained by France

Name:	Tonnage (metric tons)
Bretagne	23,500
Lorraine	23,500
Provence	23,500
Paris	23,500
France	23,500
Jean Bart	23,500
Courbet	23,500
Condorcet	18,890
Diderot	18,890
Voltaire	18,890
Total tonnage	221,170

France may lay down new tonnage in the years 1927, 1929, and 1931, as provided in Part 3, Section II.

Ships which may be retained by Italy

Name:	Tonnage (metric tons)
Andrea Doria	22,700
Caio Duilio	22,700
Conte Di Cavour	22,500
Giulio Cesare	22,500
Leonardo Da Vinci	22,500
Dante Alighieri	19,500
Roma	12,600
Napoli	12,600
Vittorio Emanuele	12,600
Regina Elena	12,600
Total tonnage	182,800

Italy may lay down new tonnage in the years 1927, 1929, and 1931, as provided in Part 3, Section II.

Ships which may be retained by Japan

Name:	Tonnage	Name—Continued.	Tonnage
Mutsu	33, 800	Kirishima	27, 500
Nagato	33, 800	Haruna	27, 500
Hiuga	31, 260	Hiyei	27, 500
Ise	31, 260	Kongo	27, 500
Yamashiro	30, 600		
Fu-So	30, 600	Total tonnage	301, 320

Part 2. Rules for Scrapping Vessels of War

The following rules shall be observed for the scrapping of vessels of war which are to be disposed of in accordance with Articles II and III.

I. A vessel to be scrapped must be placed in such condition that it cannot be put to combatant use.

II. This result must be finally effected in any one of the following ways:

(*a*) Permanent sinking of the vessel;

(*b*) Breaking the vessel up. This shall always involve the destruction or removal of all machinery, boilers and armour, and all deck, side and bottom plating;

(*c*) Converting the vessel to target use exclusively. In such case all the provisions of paragraph III of this Part, except subparagraph (6), in so far as may be necessary to enable the ship to be used as a mobile target, and except sub-paragraph (7), must be previously complied with. Not more than one capital ship may be retained for this purpose at one time by any of the Contracting Powers.

(*d*) Of the capital ships which would otherwise be scrapped under the present Treaty in or after the year 1931, France and Italy may each retain two sea-going vessels for training purposes exclusively, that is, as gunnery or torpedo schools. The two vessels retained by France shall be of the *Jean Bart* class and of those retained by Italy one shall be the *Dante Alighieri*, the other of the *Giulio Cesare* class. On retaining these ships for the purpose above stated, France and Italy respectively undertake to remove and destroy their conning-towers, and not to use the said ships as vessels of war.

III. (*a*) Subject to the special exceptions contained in Article IX, when a vessel is due for scrapping, the first stage of scrapping, which consists in rendering a ship incapable of further warlike service, shall be immediately undertaken.

(*b*) A vessel shall be considered incapable of further warlike service when there shall have been removed and landed, or else destroyed in the ship:

(1) All guns and essential portions of guns, fire-control tops and revolving parts of all barbettes and turrets;

(2) All machinery for working hydraulic or electric mountings;

(3) All fire-control instruments and range-finders;

(4) All ammunition, explosives and mines;

(5) All torpedoes, war-heads and torpedo tubes;

(6) All wireless telegraphy installations;

(7) The conning tower and all side armour, or alternatively all main propelling machinery; and

(8) All landing and flying-off platforms and all other aviation accessories.

IV. The periods in which scrapping of vessels is to be effected are as follows:

(*a*) In the case of vessels to be scrapped under the first paragraph of Article II, the work of rendering the vessels incapable of further warlike service, in accordance with paragraph III of this Part, shall be completed within six months from the coming into force of the present Treaty, and the scrapping shall be finally effected within eighteen months from such coming into force.

(*b*) In the case of vessels to be scrapped under the second and third paragraphs of Article II, or under Article III, the work of rendering the vessel incapable of further warlike service in accordance with paragraph III of this Part shall be commenced not later than the date of completion of its successor, and shall be finished within six months from the date of such completion. The vessel shall be finally scrapped, in accordance with paragraph II of this Part, within eighteen months from the date of completion of its successor. If, however, the completion of the new vessel be delayed, then the work of rendering the old vessel incapable of further warlike service in accordance with paragraph III of this Part shall be commenced within four years from the laying of the keel of the new vessel, and shall be finished within six months from the date on which such work was commenced, and the old vessel shall be finally scrapped in accordance with paragraph II of this Part within eighteen months from the date when the work

of rendering it incapable of further warlike service was commenced.

Part 3. Replacement

The replacement of capital ships and aircraft carriers shall take place according to the rules in Section I and the tables in Section II of this Part.

Section I. Rules for replacement

(*a*) Capital ships and aircraft carriers twenty years after the date of their completion may, except as otherwise provided in Article VIII and in the tables in Section II of this Part, be replaced by new construction, but within the limits prescribed in Article IV and Article VII. The keels of such new construction may, except as otherwise provided in Article VIII and in the tables in Section II of this Part, be laid down not earlier than seventeen years from the date of completion of the tonnage to be replaced, provided, however, that no capital ship tonnage, with the exception of the ships referred to in the third paragraph of Article II, and the replacement tonnage specifically mentioned in Section II of this Part, shall be laid down until ten years from November 12, 1921.

(*b*) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information:

(1) The names of the capital ships and aircraft carriers to be replaced by new construction;

(2) The date of governmental authorization of replacement tonnage;

(3) The date of laying the keels of replacement tonnage;

(4) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draft at standard displacement;

(5) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draft at standard displacement, at time of completion.

(*c*) In case of loss or accidental destruction of capital ships or aircraft carriers, they may immediately be replaced by new construction subject to the tonnage limits prescribed in Articles IV and VII and in conformity with the other provisions of the present Treaty, the regular replacement program being deemed to be advanced to that extent.

(*d*) No retained capital ships or aircraft carriers shall be reconstructed except for the purpose of providing means of defense

against air and submarine attack, and subject to the following rules: The Contracting Powers may, for that purpose, equip existing tonnage with bulge or blister or anti-air attack deck protection, providing the increase of displacement thus effected does not exceed 3,000 tons (3,048 metric tons) displacement for each ship. No alterations in side armor, in calibre, number or general type of mounting of main armament shall be permitted except:

(1) in the case of France and Italy, which countries within the limits allowed for bulge may increase their armor protection and the calibre of the guns now carried on their existing capital ships so as not to exceed 16 inches (406 millimeters) and

(2) the British Empire shall be permitted to complete, in the case of the *Renown*, the alterations to armor that have already been commenced but temporarily suspended.

SECTION II. REPLACEMENT AND SCRAPPING OF CAPITAL SHIPS

UNITED STATES

Year	Ships laid down	Ships completed	Ships scrapped (age in parentheses)	Ships retained—Summary	
				Pre-Jutland	Post-Jutland
			Maine (20), Missouri (20), Virginia (17), Nebraska (17), Georgia (17), New Jersey (17), Rhode Island (17), Connecticut (17), Louisiana (17), Vermont (16), Kansas (16), Minnesota (16), New Hampshire (15), South Carolina (13), Michigan (13), Washington (0), South Dakota (0), Indiana (0), Montana (0), North Carolina (0), Iowa (0), Massachusetts (0), Lexington (0), Constitution (0), Constellation (0), Saratoga (0), Ranger (0), United States (0).[1]	17	1
1922		A, B [2]	Delaware (12), North Dakota (12)	15	3
1923				15	3
1924				15	3
1925				15	3
1926				15	3
1927				15	3
1928				15	3
1929				15	3
1930				15	3
1931	C, D			15	3
1932	E, F			15	3
1933	G			15	3
1934	H, I	C, D	Florida (23), Utah (23), Wyoming (22)	12	5
1935	J	E, F	Arkansas (23), Texas (21), New York (21)	9	7
1936	K, L	G	Nevada (20), Oklahoma (20)	7	8
1937	M	H, I	Arizona (21), Pennsylvania (21)	5	10
1938	N, O	J	Mississippi (21)	4	11
1939	P, Q	K, L	New Mexico (21), Idaho (20)	2	13
1940		M	Tennessee (20)	1	14
1941		N, O	California (20), Maryland (20)	0	15
1942		P, Q	2 ships West Virginia class	0	15

[1] The United States may retain the *Oregon* and *Illinois*, for noncombatant purposes, after complying with the provisions of Part 2, III, (*b*).

[2] Two *West Virginia* class.

NOTE.—A, B, C, D, etc., represent individual capital ships of 35,000 tons standard displacement, laid down and completed in the years specified.

SECTION II. REPLACEMENT AND SCRAPPING OF CAPITAL SHIPS—continued

BRITISH EMPIRE

Year	Ships laid down	Ships completed	Ships scrapped (age in parentheses)	Ships retained—Summary	
				Pre-Jutland	Post-Jutland
			Commonwealth (16), Agamemnon (13), Dreadnought (15), Bellerophon (12), St. Vincent (11), Inflexible (13), Superb (12), Neptune (10), Hercules (10), Indomitable (13), Temeraire (12), New Zealand (9), Lion (9), Princess Royal (9), Conqueror (9), Monarch (9), Orion (9), Australia (8), Agincourt (7), Erin (7), 4 building or projected.[3]	21	1
1922	A, B[4]			21	1
1923				21	1
1924				21	1
1925		A, B	King George V (13), Ajax (12), Centurion (12), Thunderer (13).	17	3
1926				17	3
1927				17	3
1928				17	3
1929				17	3
1930				17	3
1931	C, D			17	3
1932	E, F			17	3
1933	G			17	3
1934	H, I	C, D	Iron Duke (20), Marlborough (20), Emperor of India (20), Benbow (20).	13	5
1935	J	E, F	Tiger (21), Queen Elizabeth (20), Warspite (20), Barham (20).	9	7
1936	K, L	G	Malaya (20), Royal Sovereign (20)	7	8
1937	M	H, I	Revenge (21), Resolution (21)	5	10
1938	N, O	J	Royal Oak (22)	4	11
1939	P, Q	K, L	Valiant (23), Repulse (23)	2	13
1940		M	Renown (24)	1	14
1941		N, O	Ramillies (24), Hood (21)	0	15
1942		P, Q	A (17), B (17)	0	15

[3] The British Empire may retain the *Colossus* and *Collingwood* for noncombatant purposes, after complying with the provisions of Part 2, III, (*b*).

[4] Two 35,000-ton ships, standard displacement.

NOTE.—A, B, C, D, etc., represent individual capital ships of 35,000 tons standard displacement laid down and completed in the years specified.

FRANCE

1922				7	0
1923				7	0
1924				7	0
1925				7	0
1926				7	0
1927	35,000 tons			7	0
1928				7	0
1929	35,000 tons			7	0
1930		35,000 tons	Jean Bart (17), Courbet (17)	5	[5]
1931	35,000 tons			5	[5]
1932	35,000 tons	35,000 tons	France (18)	4	[5]
1933	35,000 tons			4	[5]
1934		35,000 tons	Paris (20), Bretagne (20)	2	[5]
1935		35,000 tons	Provence (20)	1	[5]
1936		35,000 tons	Lorraine (20)	0	[5]
1937				0	[5]
1938				0	[5]
1939				0	[5]
1940				0	[5]
1941				0	[5]
1942				0	[5]

[5] Within tonnage limitations; number not fixed.

NOTE.—France expressly reserves the right of employing the capital ship tonnage allotment as she may consider advisable, subject solely to the limitations that the displacement of individual ships should not surpass 35,000 tons, and that the total capital ship tonnage should keep within the limits imposed by the present treaty.

SECTION II. REPLACEMENT AND SCRAPPING OF CAPITAL SHIPS—continued

ITALY

Year	Ships laid down	Ships completed	Ships scrapped (age in parentheses)	Ships retained—Summary	
				Pre-Jutland	Post-
1922				6	0
1923				6	0
1924				6	0
1925				6	0
1926				6	0
1927	35,000 tons			6	0
1928				6	0
1929	35,000 tons			6	0
1930				6	0
1931	35,000 tons	35,000 tons	Dante Alighieri (19)	5	(5)
1932	45,000 tons			5	(5)
1933	25,000 tons	35,000 tons	Leonardo da Vinci (19)	4	(5)
1934				4	(5)
1935		35,000 tons	Guilio Cesare (21)	3	(5)
1936		45,000 tons	Conte di Cavour (21), Duilio (21)	1	(5)
1937		25,000 tons	Andrea Doria (21)	0	(5)

[5] Within tonnage limitations; number not fixed.

NOTE.—Italy expressly reserves the right of employing the capital ship tonnage allotment as she may consider advisable, subject solely to the limitations that the displacement of individual ships should not surpass 35,000 tons, and the total capital ship tonnage should keep within the limits imposed by the present treaty.

JAPAN

			Hizen (20), Mikasa (20), Kashima (16), Katori (16), Satsuma (12), Aki (11), Settsu (10), Ikoma (14), Ibuki (12), Kurama (11), Amagi (0), Akagi (0), Kaga (0), Tosa (0), Takao (0), Atago (0). Projected program 8 ships not laid down.[6]	8	2
1922				8	2
1923				8	2
1924				8	2
1925				8	2
1926				8	2
1927				8	2
1928				8	2
1929				8	2
1930				8	2
1931	A			8	2
1932	B			8	2
1933	C			8	2
1934	D	A	Kongo (21)	7	3
1935	E	B	Hiyei (21), Haruna (20)	5	4
1936	F	C	Kirishima (21)	4	5
1937	G	D	Fuso (22)	3	6
1938	H	E	Yamashiro (21)	2	7
1939	I	F	Ise (22)	1	8
1940		G	Hiuga (22)	0	9
1941		H	Nagato (21)	0	9
1942		I	Mutsu (21)	0	9

[6] Japan may retain the Shikishima and Asahi for noncombatant purposes, after complying with the provisions of Part 2, III, (*b*).

NOTE.—A, B, C,D, etc., represent individual capital ships of 35,000 tons standard displacement, laid down and completed in the years specified.

NOTE APPLICABLE TO ALL THE TABLES IN SECTION II

The order above prescribed in which ships are to be scrapped is in accordance with their age. It is understood that when replacement begins according to the above tables the order of scrapping in the case of the ships of each of the Contracting Powers may be

varied at its option; provided, however, that such Power shall scrap in each year the number of ships above stated.

Part 4. Definitions

For the purposes of the present Treaty, the following expressions are to be understood in the sense defined in this Part.

Capital Ship

A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft carrier, whose displacement exceeds 10,000 tons (10,160 metric tons) standard displacement, or which carries a gun with a calibre exceeding 8 inches (203 millimetres).

Aircraft Carrier

An aircraft carrier is defined as a vessel of war with a displacement in excess of 10,000 tons (10,160 metric tons) standard displacement designed for the specific and exclusive purpose of carrying aircraft. It must be so constructed that aircraft can be launched therefrom and landed thereon, and not designed and constructed for carrying a more powerful armament than that allowed to it under Article IX or Article X as the case may be.

Standard Displacement

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The word "ton" in the present Treaty, except in the expression "metric tons," shall be understood to mean the ton of 2240 pounds (1016 kilos).

Vessels now completed shall retain their present ratings of displacement tonnage in accordance with their national system of measurement. However, a Power expressing displacement in metric tons shall be considered for the application of the present Treaty as owning only the equivalent displacement in tons of 2240 pounds.

A vessel completed hereafter shall be rated at its displacement tonnage when in the standard condition defined herein.

CHAPTER III. MISCELLANEOUS PROVISIONS

Article XXI

If during the term of the present Treaty the requirements of the national security of any Contracting Power in respect of naval de-

fence are, in the opinion of that Power, materially affected by any change of circumstances, the Contracting Powers will, at the request of such Power, meet in conference with a view to the reconsideration of the provisions of the Treaty and its amendment by mutual agreement.

In view of possible technical and scientific developments, the United States, after consultation with the other Contracting Powers, shall arrange for a conference of all the Contracting Powers which shall convene as soon as possible after the expiration of eight years from the coming into force of the present Treaty to consider what changes, if any, in the Treaty may be necessary to meet such developments.

Article XXII

Whenever any Contracting Power shall become engaged in a war which in its opinion affects the naval defence of its national security, such Power may after notice to the other Contracting Powers suspend for the period of hostilities its obligations under the present Treaty other than those under Articles XIII and XVII, provided that such Power shall notify the other Contracting Powers that the emergency is of such a character as to require such suspension.

The remaining Contracting Powers shall in such case consult together with a view to agreement as to what temporary modifications if any should be made in the Treaty as between themselves. Should such consultation not produce agreement, duly made in accordance with the constitutional methods of the respective Powers, any one of said Contracting Powers may, by giving notice to the other Contracting Powers, suspend for the period of hostilities its obligations under the present Treaty, other than those under Articles XIII and XVII.

On the cessation of hostilities the Contracting Powers will meet in conference to consider what modifications, if any, should be made in the provisions of the present Treaty.

Article XXIII

The present Treaty shall remain in force until December 31st, 1936, and in case none of the Contracting Powers shall have given notice two years before that date of its intention to terminate the Treaty, it shall continue in force until the expiration of two years from the date on which notice of termination shall be given by one of the Contracting Powers, whereupon the Treaty shall terminate as regards all the Contracting Powers. Such notice shall be communicated in writing to the Government of the United States, which shall

immediately transmit a certified copy of the notification to the other Powers and inform them of the date on which it was received. The notice shall be deemed to have been given and shall take effect on that date. In the event of notice of termination being given by the Government of the United States, such notice shall be given to the diplomatic representatives at Washington of the other Contracting Powers, and the notice shall be deemed to have been given and shall take effect on the date of the communication made to the said diplomatic representatives.

Within one year of the date on which a notice of termination by any Power has taken effect, all the Contracting Powers shall meet in conference.

Article XXIV

The present Treaty shall be ratified by the Contracting Powers in accordance with their respective constitutional methods and shall take effect on the date of the deposit of all the ratifications, which shall take place at Washington as soon as possible. The Government of the United States will transmit to the other Contracting Powers a certified copy of the procès-verbal of the deposit of ratifications.

The present Treaty, of which the French and English texts are both authentic, shall remain deposited in the archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to the other Contracting Powers.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty.

Done at the City of Washington the sixth day of February, One Thousand Nine Hundred and Twenty-Two.

[L. S.]	Charles Evans Hughes	[L. S.]	Arthur James Balfour
[L. S.]	Henry Cabot Lodge	[L. S.]	V S Srinivasa Sastri
[L. S.]	Oscar W Underwood	[L. S.]	A Sarraut
[L. S.]	Elihu Root	[L. S.]	Jusserand
[L. S.]	Arthur James Balfour	[L. S.]	Carlo Schanzer
[L. S.]	Lee of Fareham.	[L. S.]	V. Rolandi Ricci
[L. S.]	A. C. Geddes	[L. S.]	Luigi Albertini
[L. S.]	R. L. Borden.	[L. S.]	T. Kato
[L. S.]	G. F. Pearce	[L. S.]	K. Shidehara
[L. S.]	John W Salmond	[L. S.]	M. Hanihara

And Whereas the said Treaty has been duly ratified on all parts and the ratifications of the said Governments were deposited with the Government of the United States of America on August 17, 1923;

Now, therefore, be it known that I, Calvin Coolidge, President of the United States of America, have caused the said Treaty to be

made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done in the City of Washington this twenty-first day of August in the year of our Lord one thousand nine hundred and twenty-three, and of the Independence of the United States of America the one hundred and forty-eighth.

[SEAL.] CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES
Secretary of State.

PROCÈS-VERBAL

OF DEPOSIT OF RATIFICATIONS OF THE TREATY BETWEEN THE UNITED STATES OF AMERICA, THE BRITISH EMPIRE, FRANCE, ITALY AND JAPAN, TO LIMIT THEIR RESPECTIVE NAVAL ARMAMENT, CONCLUDED AT WASHINGTON, FEBRUARY 6, 1922

In conformity with Article XXIV of the Treaty between the United States of America, the British Empire, France, Italy and Japan to limit their respective naval armament, concluded at Washington on February 6, 1922, the undersigned representatives of the United States of America, the British Empire, France, Italy and Japan, this day met at the Department of State at Washington to proceed with the deposit with the Government of the United States of America of the instruments of ratification of the said Treaty by the governments they represent.

The representative of the Government of the French Republic made the following declaration:

Le Gouvernement français estime et a toujours estimé que les rapports des tonnages globaux en bâtiments de ligne et en porte-aéronefs, attribués à chacune des Puissances Contractantes, n'expriment pas l'importance respective des intérêts maritimes de ces Puissances et ne peuvent être étendus aux catégories de navires autres que celles pour lesquelles ils ont été expressément stipulés.[3]

The instruments of ratification produced having been found upon examination to be in due form, are entrusted to the Government of the United States of America to be deposited in the archives of the Department of State.

[3] The French Government considers and always has considered that the ratios of total tonnage in capital ships and aircraft carriers allowed to the several Contracting Powers do not represent the respective importance of the maritime interests of those Powers and can not be extended to the categories of vessels other than those for which they were expressly stipulated.

In witness whereof, the present procès-verbal, of which a certified copy will be sent by the Government of the United States of America to each one of the Powers signatory to the said treaty, is signed.

Done at Washington, August 17, 1923, at 12 o'clock.

For the United States of America:

CHARLES EVANS HUGHES [SEAL]

For the British Empire:

H. G. CHILTON [SEAL]

For France:

ANDRÉ DE LABOULAYE [SEAL]

For Italy:

AUGUSTO ROSSO [SEAL]

For Japan:

M. HANIHARA [SEAL]

CENTRAL AMERICAN CONVENTION FOR THE LIMITATION OF ARMAMENTS[4]

The Governments of the Republics of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica having signed on this date a general treaty of peace and amity, and it being their desire and interest that in the future their military policy should be guided only by the exigencies of internal order, have agreed to conclude the present convention, and to that end have named as delegates:

Guatemala: Their Excellencies Señor Don Francisco Sánchez Latour and Señor Licenciado Don Marcial Prem.

El Salvador: Their Excellencies Señor Doctor Don Francisco Martínez Suárez and Señor Doctor Don J. Gustavo Guerrero.

Honduras: Their Excellencies Señor Doctor Don Alberto Uclés, Señor Doctor Don Salvador Cordova and Señor Don Raúl Toledo López.

Nicaragua: Their Excellencies Señor General Don Emiliano Chamorro, Señor Don Adolfo Cárdenas and Señor Doctor Don Máximo H. Zepeda.

Costa Rica: Their Excellencies Señor Licenciado Don Alfredo Gonzáles Flores and Señor Licenciado J. Rafael Oreamuno.

By virtue of the invitation sent to the Government of the United States of America by the Governments of the five Central American Republics, there were present at the deliberations of the conference, as delegates from the Government of the United States of America, The Honorable Charles E. Hughes, Secretary of State of the United States of America and the Honorable Sumner Welles, Envoy Extraordinary and Minister Plenipotentiary.

After having communicated to one another their respective full powers, which were found to be in due form, the delegates of the five Central American Powers assembled in the Conference on Central American Affairs at Washington, have agreed to carry out the said proposal in the following manner:

Article I

The contracting parties having taken into consideration their relative population, area, extent of frontiers and various other factors of military importance, agree that for a period of five years from the date of the coming into force of the present convention, they shall not maintain a standing army and national guard in excess

[4] Ratified by Guatemala, El Salvador, Nicaragua, Costa Rica, 1924; Honduras, 1925.

of the number of men hereinafter provided, except in case of civil war, or impending invasion by another state.

Guatemala	5,200
El Salvador	4,200
Honduras	2,500
Nicaragua	2,500
Costa Rica	2,000

General officers and officers of a lower rank of the standing army, who are necessary in accordance with the military regulations of each country, are not included in the provisions of this article, nor are those of the national guard. The police force is also not included.

Article II

As the first duty of armed forces of the Central American Governments is to preserve public order, each of the contracting parties obligates itself to establish a national guard to cooperate with the existing armies in the preservation of order in the various districts of the country and on the frontiers, and shall immediately consider the best means for establishing it. With this end in view the Governments of the Central American States shall give consideration to the employment of suitable instructors, in order to take advantage, in this manner, of experience acquired in other countries in organizing such corps.

In no case shall the total combined force of the army and of the national guard exceed the maximum limit fixed in the preceding article, except in the cases therein provided.

Article III

The contracting parties undertake not to export or permit the exportation of arms or munitions or any other kind of military stores from one Central American country to another.

Article IV

None of the contracting parties shall have the right to possess more than ten war aircraft. Neither may any of them acquire war vessels; but armed coast guard boats shall not be considered as war vessels.

The following cases shall be considered as exceptions to this article: civil war or threatened attack by a foreign state; in such cases the right of defense shall have no other limitations than those established by existing treaties.

Article V

The contracting parties consider that the use in warfare of asphyxiating gases, poisons, or similar substances as well as analogous liquids, materials or devices, is contrary to humanitarian

principles and to international law, and obligate themselves by the present convention not to use said substances in time of war.

Article VI

Six months after the coming into force of the present convention each of the contracting governments shall submit to the other Central American Governments a complete report on the measures adopted by said government for the execution of this convention. Similar reports shall be submitted semiannually, during the aforesaid period of the five years. The reports shall include the units of the army, if any, and of the national guard; and any other information which the parties shall sanction.

Article VII

The present convention shall take effect, with respect to the parties that have ratified it, from the date of its ratification by at least four of the signatory states.

Article VIII

The present convention shall remain in force until the first of January, one thousand nine hundred and twenty-nine, notwithstanding any prior denunciation, or any other cause. After the first of January, one thousand nine hundred and twenty-nine, it shall continue in force until one year after the date on which one of the parties bound thereby notifies the others of its intention to denounce it. The denunciation of this convention by any of said parties shall leave it in force for those parties which have ratified it and have not denounced it, provided that these be not less than four in number. Any of the republics of Central America which should fail to ratify this convention, shall have the right to adhere to it while it is in force.

Article IX

The exchange of ratifications of the present convention shall be made through communications addressed by the governments to the Government of Costa Rica in order that the latter may inform the other contracting states. If the Government of Costa Rica should ratify the convention, notice of said ratification shall also be communicated to the others.

Article X

The original copy of the present convention, signed by all of the delegates plenipotentiary, shall be deposited in the archives of the Pan-American Union at Washington. A copy duly certified shall be sent by the Secretary-General of the conference to each one of the governments of the contracting parties.

Signed at the city of Washington, on the seventh day of February, nineteen hundred and twenty-three.

[L. S.]	F. Sánchez Latour	[L. S.]	Raúl Toledo López
[L. S.]	Marcial Prem	[L. S.]	Emiliano Chamorro
[L. S.]	F. Martínez Suárez	[L. S.]	Adolfo Cárdenas
[L. S.]	J. Gustavo Guerrero	[L. S.]	Máximo H. Zepeda
[L. S.]	Alberto Uclés	[L. S.]	Alfredo González
[L. S.]	Salvador Córdova	[L. S.]	J. Rafael Oreamuno

POSSESSIONS IN PACIFIC OCEAN

TREATY BETWEEN THE UNITED STATES, THE BRITISH EMPIRE, FRANCE, AND JAPAN,[5] RELATING TO THEIR INSULAR POSSESSIONS AND INSULAR DOMINIONS IN THE REGION OF THE PACIFIC OCEAN

By the President of the United States of America

A PROCLAMATION

Whereas a Treaty between the United States of America, the British Empire, France and Japan, relating to their insular possessions and insular dominions in the region of the Pacific Ocean, was concluded and signed by their respective plenipotentiaries at Washington on December 13, 1921, the original of which Treaty, in the English and French languages, is word for word as follows:

The United States of America, the British Empire, France and Japan,

With a view to the preservation of the general peace and the maintenance of their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean,

Have determined to conclude a Treaty to this effect and have appointed as their Plenipotentiaries:

The President of the United States of America:

Charles Evans Hughes,
Henry Cabot Lodge,
Oscar W. Underwood and
Elihu Root, citizens of the United States;

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[5] Treaty Series, No. 669.

[Signed at Washington, December 13, 1921; ratification advised by the Senate, with a reservation and understanding, March 24, 1922; ratified by the President, June 9, 1923; ratifications deposited with the Government of the United States, August 17, 1923; proclaimed, August 21, 1923]

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

The Right Honourable Arthur James Balfour, O. M., M. P., Lord President of His Privy Council;

The Right Honourable Baron Lee of Fareham, G. B. E., K. C. B., First Lord of His Admiralty;

The Right Honourable Sir Auckland Campbell Geddes, K. C. B., His Ambassador Extraordinary and Plenipotentiary to the United States of America;

And

for the Dominion of Canada:

The Right Honourable Robert Laird Borden, G. C. M. G., K. C.;

for the Commonwealth of Australia:

The Honourable George Foster Pearce, Minister of Defence;

for the Dominion of New Zealand:

Sir John William Salmond, K. C., Judge of the Supreme Court of New Zealand;

for the Union of South Africa:

The Right Honourable Arthur James Balfour, O. M., M. P.;

for India:

The Right Honourable Valingman Sankaranarayana Srinivasa Sastri, Member of the Indian Council of State;

The President of the French Republic:

Mr. René Viviani, Deputy, Former President of the Council of Ministers;

Mr. Albert Sarraut, Deputy, Minister of the Colonies;

Mr. Jules J. Jusserand, Ambassador Extraordinary and Plenipotentiary to the United States of America, Grand Cross of the National Order of the Legion of Honour;

His Majesty the Emperor of Japan:

Baron Tomosaburo Kato, Minister for the Navy, Junii, a member of the First Class of the Imperial Order of the Grand Cordon of the Rising Sun with the Paulownia Flower;

Baron Kijuro Shidehara, His Ambassador Extraordinary and Plenipotentiary at Washington, Joshii, a member of the First Class of the Imperial Order of the Rising Sun;

Prince Iyesato Tokugawa, Junii, a member of the First Class of the Imperial Order of the Rising Sun;

Mr. Masanao Hanihara, Vice-Minister for Foreign Affairs, Jushii, a member of the Second Class of the Imperial Order of the Rising Sun;

Who, having communicated their Full Powers, found in good and due form, have agreed as follows:

I

The High Contracting Parties agree as between themselves to respect their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean.

If there should develop between any of the High Contracting Parties a controversy arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy and is likely to affect the harmonious accord now happily subsisting between them, they shall invite the other High Contracting Parties to a joint conference to which the whole subject will be referred for consideration and adjustment.

II

If the said rights are threatened by the aggressive action of any other Power, the High Contracting Parties shall communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation.

III

This Treaty shall remain in force for ten years from the time it shall take effect, and after the expiration of said period it shall continue to be in force subject to the right of any of the High Contracting Parties to terminate it upon twelve months' notice.

IV

This Treaty shall be ratified as soon as possible in accordance with the constitutional methods of the High Contracting Parties and shall take effect on the deposit of ratifications, which shall take place at Washington, and thereupon the agreement between Great Britain and Japan, which was concluded at London on July 13, 1911, shall terminate. The Government of the United States will transmit to all the Signatory Powers a certified copy of the *procés-verbal* of the deposit of ratifications.

The present Treaty, in French and in English, shall remain deposited in the Archives of the Government of the United States, and duly certified copies thereof will be transmitted by that Government to each of the Signatory Powers.

In faith whereof the above named Plenipotentiaries have signed the present Treaty.

Done at the City of Washington, the thirteenth day of December, One Thousand Nine Hundred and Twenty-One.

[L. S.] CHARLES EVANS HUGHES
[L. S.] HENRY CABOT LODGE
[L. S.] OSCAR W. UNDERWOOD
[L. S.] ELIHU ROOT
[L. S.] ARTHUR JAMES BALFOUR
[L. S.] LEE OF FAREHAM
[L. S.] A. C. GEDDES
[L. S.] R. L. BORDEN
[L. S.] G. F. PEARCE
[L. S.] JOHN W. SALMOND
[L. S.] ARTHUR JAMES BALFOUR
[L. S.] V. S. SRINIVASA SASTRI
[L. S.] RENÉ VIVIANI
[L. S.] A. SARRAUT
[L. S.] JUSSERAND
[L. S.] T. KATO
[L. S.] K. SHIDEHARA
[L. S.] TOKUGAWA IYESATO
[L. S.] M. HANIHARA

And Whereas the said Treaty has been duly ratified on all parts and the ratifications of the said Governments were deposited with the Government of the United States of America on August 17, 1923;

And Whereas the said Treaty was ratified by the United States subject to the reservation and understanding that "The United States understands that under the statement in the preamble and under the terms of this Treaty there is no commitment to armed force, no alliance, no obligation to join in any defense";

Now, therefore, be it known that I, Calvin Coolidge, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof, subject to the aforesaid understanding and reservation.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the City of Washington this twenty-first day of August in the year of our Lord one thousand nine hundred and twenty-three, and of the Independence of the United States of America the one hundred and forty-eighth.

[SEAL.] CALVIN COOLIDGE.

By the President:

CHARLES E. HUGHES
Secretary of State.

[DECLARATION SIGNED SEPARATELY IN ENGLISH AND IN FRENCH]

In signing the Treaty this day between The United States of America, The British Empire, France and Japan, it is declared to be the understanding and intent of the Signatory Powers:

1. That the Treaty shall apply to the Mandated Islands in the Pacific Ocean; provided, however, that the making of the Treaty

shall not be deemed to be an assent on the part of The United States of America to the mandates and shall not preclude agreements between The United States of America and the Mandatory Powers respectively in relation to the mandated islands.

2. That the controversies to which the second paragraph of Article I refers shall not be taken to embrace questions which according to principles of international law lie exclusively within the domestic jurisdiction of the respective Powers.

Washington, D. C., December 13, 1921.

CHARLES EVANS HUGHES
HENRY CABOT LODGE
OSCAR W. UNDERWOOD
ELIHU ROOT
ARTHUR JAMES BALFOUR
LEE OF FAREHAM
A. C. GEDDES
R. L. BORDEN
G. F. PEARCE
JOHN W. SALMOND

ARTHUR JAMES BALFOUR
V. S. SRINIVASA SASTRI
RENÉ VIVIANI
A. SARRAUT
JUSSERAND
T. KATO
K. SHIDEHARA
TOKUGAWA IYESATO
M. HANIHARA

PROCÈS-VERBAL

OF DEPOSIT OF RATIFICATIONS OF THE TREATY BETWEEN THE UNITED STATES OF AMERICA, THE BRITISH EMPIRE, FRANCE AND JAPAN, RELATING TO THEIR INSULAR POSSESSIONS AND INSULAR DOMINIONS IN THE REGION OF THE PACIFIC OCEAN, CONCLUDED AT WASHINGTON, DECEMBER 13, 1921

In conformity with Article IV of the Treaty between the United States of America, the British Empire, France and Japan relating to their insular possessions and insular dominions in the region of the Pacific Ocean, concluded at Washington on December 13, 1921, the undersigned representatives of the United States of America, the British Empire, France and Japan this day met at the Department of State at Washington to proceed with the deposit with the Government of the United States of America of the instruments of ratification of the said Treaty by the governments they represent.

The representative of the United States of America declared that the instrument of ratification of the United States is deposited with the reservation and understanding, recited in the ratification, that—

"The United States understands that under the statement in the preamble or under the terms of this treaty there is no commitment to armed force, no alliance, no obligation to join in any defense."

The instruments of ratification produced having been found upon examination to be in due form, are entrusted to the Government of the United States of America to be deposited in the archives of the Department of State.

In witness whereof, the present procès-verbal, of which a certified copy will be sent by the Government of the United States of America to each one of the Powers signatory to the said treaty, is signed:

Done at Washington, August 17, 1923, at 12 o'clock.

For the United States:

CHARLES EVANS HUGHES [SEAL]

For the British Empire:

H. G. CHILTON [SEAL]

For France:

ANDRÉ DE LABOULAYE [SEAL]

For Japan:

M. HANIHARA [SEAL]

AGREEMENT BETWEEN THE UNITED STATES, THE BRITISH EMPIRE, FRANCE, AND JAPAN[6]—SUPPLEMENTARY TO THE TREATY OF DECEMBER 13, 1921, BETWEEN THE SAME FOUR POWERS RELATING TO THEIR INSULAR POSSESSIONS AND INSULAR DOMINIONS IN THE REGION OF THE PACIFIC OCEAN

[Signed at Washington, February 6, 1922; ratification advised by the Senate, with a reservation and understanding, March 27, 1922; ratified by the President, June 9, 1923; ratifications deposited with the Government of the United States, August 17, 1923; proclaimed, August 21, 1923]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas an Agreement between the United States of America, the British Empire, France and Japan, supplementary to the Treaty between the same four Powers relating to their insular possessions and insular dominions in the region of the Pacific Ocean, signed at Washington on December 13, 1921, was concluded and signed by their respective Plenipotentiaries at Washington on February 6, 1922, the original of which Agreement, in the English and French languages, is word for word as follows:

The United States of America, the British Empire, France and Japan have, through their respective Plenipotentiaries, agreed upon the following stipulations supplementary to the Quadruple Treaty signed at Washington on December 13, 1921:

The term "insular possessions and insular dominions" used in the aforesaid Treaty shall, in its application to Japan, include only Karafuto (or the Southern portion of the island of Sakhalin), For-

[6] Treaty Series, No. 670.

mosa and the Pescadores, and the islands under the mandate of Japan.

The present agreement shall have the same force and effect as the said Treaty to which it is supplementary.

The provisions of Article IV of the aforesaid Treaty of December 13, 1921, relating to ratification shall be applicable to the present Agreement, which in French and English shall remain deposited in the Archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to each of the other Contracting Powers.

In faith whereof the respective Plenipotentiaries have signed the present Agreement.

Done at the City of Washington, the sixth day of February, One Thousand Nine Hundred and Twenty-two.

[L. S.]	CHARLES EVANS HUGHES	[L. S.]	JOHN W. SALMOND
[L. S.]	HENRY CABOT LODGE	[L. S.]	ARTHUR JAMES BALFOUR
[L. S.]	OSCAR W. UNDERWOOD	[L. S.]	V S SRINIVASA SASTRI
[L. S.]	ELIHU ROOT	[L. S.]	A SARRAUT
[L. S.]	ARTHUR JAMES BALFOUR	[L. S.]	JUSSERAND
[L. S.]	LEE OF FAREHAM	[L. S.]	T. KATO
[L. S.]	A. C. GEDDES	[L. S.]	K. SHIDEHARA
[L. S.]	R. L. BORDEN	[L. S.]	M. HANIHARA
[L. S.]	G. F. PEARCE		

And Whereas the said Agreement has been ratified on all parts and the ratifications of the said Governments were deposited with the Government of the United States of America on August 17, 1923;

And Whereas the said Agreement was ratified by the United States subject to the following reservation and understanding, which repeats the declaration of intent and understanding made by the representatives of the Powers signatories of the said Treaty relating to their insular possessions and insular dominions in the region of the Pacific Ocean:

"1. That the Four Power Treaty relating to Pacific Possessions shall apply to the Mandated Islands in the Pacific Ocean; provided, however, that the making of the Treaty shall not be deemed to be an assent on the part of the United States of America to the mandates and shall not preclude agreements between the United States of America and the Mandatory Powers respectively in relation to the mandated islands.

"2. That the controversies to which the second paragraph of Article 1 of the Four Power Treaty relating to Pacific Possessions refers shall not be taken to embrace questions which according to principles of international law lie exclusively within the domestic jurisdiction of the respective Powers."

Now, therefore, be it known that I, Calvin Coolidge, President of the United States of America, have caused the said Agreement to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled in good faith by the United States and the citizens thereof, subject to the aforesaid reservation and understanding.

In testimony whereof I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done in the City of Washington this twenty-first day of August in the year of our Lord one thousand nine hundred and twenty three, and of the Independence of the United States of America the one hundred and forty-eighth.

[SEAL.] CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES

Secretary of State.

PROCÈS-VERBAL

OF DEPOSIT OF RATIFICATIONS OF THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, THE BRITISH EMPIRE, FRANCE AND JAPAN, CONCLUDED AT WASHINGTON, FEBRUARY 6, 1922, SUPPLEMENTARY TO THE TREATY CONCLUDED BETWEEN THEM ON DECEMBER 13, 1921, RELATING TO THEIR INSULAR POSSESSIONS AND INSULAR DOMINIONS IN THE REGION OF THE PACIFIC OCEAN

In conformity with the Agreement between the United States of America, the British Empire, France and Japan, concluded at Washington on February 6, 1922, supplementary to the Treaty concluded between the same Four Powers at Washington on December 13, 1921, relating to their insular possessions and insular dominions in the region of the Pacific Ocean, the undersigned representatives of the United States of America, the British Empire, France and Japan this day met at the Department of State at Washington to proceed with the deposit with the Government of the United States of America of the instruments of ratification of the said Agreement by the governments they respectively represent.

The representative of the United States of America declared that the instrument of ratification of the United States is deposited with the reservation and understanding recited in the ratification, and which repeats the declaration of intent and understanding signed on December 13, 1921, by the Plenipotentiaries of the Four Powers Signatories of the Treaty of December 13, 1921, as follows:

"1. That the Four Power Treaty relating to Pacific Possessions shall apply to the Mandated Islands in the Pacific Ocean; provided,

however, that the making of the Treaty shall not be deemed to be an assent on the part of the United States of America to the mandates and shall not preclude agreements between the United States of America and the Mandatory Powers respectively in relation to the mandated islands.

"2. That the controversies to which the second paragraph of Article I of the Four Power Treaty relating to Pacific Possessions refers shall not be taken to embrace questions which according to principles of international law lie exclusively within the domestic jurisdiction of the respective Powers."

The instruments of ratification produced, having been found upon examination to be in due form, are entrusted to the Government of the United States of America to be deposited in the archives of the Department of State.

In Witness Whereof, the present procès-verbal, of which a certified copy will be sent by the Government of the United States of America to each one of the Powers signatory to the said Treaty, is signed.

Done at Washington, August 17, 1923, at 12 o'clock.

For the United States of America:

CHARLES EVANS HUGHES [SEAL]

For the British Empire:

H. G. CHILTON [SEAL]

For France:

ANDRÉ DE LABOULAYE [SEAL]

For Japan:

M. HANIHARA [SEAL]

NICARAGUAN CANAL ROUTE

CONVENTION BETWEEN THE UNITED STATES AND NICARAGUA[7]— NICARAGUAN CANAL ROUTE

[Signed at Washington, August 5, 1914; ratification advised by the Senate, with amendments, February 18, 1916; ratified by the President, June 19, 1916; ratified by Nicaragua, April 13, 1916; ratifications exchanged at Washington, June 22, 1916; proclaimed, June 24, 1916]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas a Convention between the United States of America and the Republic of Nicaragua granting to the United States the exclusive proprietary rights for the construction and operation of an interoceanic canal by a Nicaraguan route, the lease of certain islands, and the right to establish a naval base on the Gulf of Fonseca, was

[7] Treaty Series, No. 624.

concluded and signed by their respective Plenipotentiaries at Washington, on the fifth day of August, one thousand nine hundred and fourteen, the original of which Convention, being in the English and Spanish languages is, as amended by the Senate of the United States, word for word as follows:

The Government of the United States of America and the Government of Nicaragua being animated by the desire to strengthen their ancient and cordial friendship by the most sincere cooperation for all purposes of their mutual advantage and interest and to provide for the possible future construction of an interoceanic ship canal by way of the San Juan River and the great Lake of Nicaragua, or by any route over Nicaraguan territory, whenever the construction of such canal shall be deemed by the Government of the United States conducive to the interests of both countries, and the Government of Nicaragua wishing to facilitate in every way possible the successful maintenance and operation of the Panama Canal, the two Governments have resolved to conclude a Convention to these ends, and have accordingly appointed as their plenipotentiaries:

The President of the United States, the Honorable William Jennings Bryan, Secretary of State; and

The President of Nicaragua, Señor General Don Emiliano Chamorro, Envoy Extraordinary and Minister Plenipotentiary of Nicaragua to the United States;

Who, having exhibited to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

Article I

The Government of Nicaragua grants in perpetuity to the Government of the United States, forever free from all taxation or other public charge, the exclusive proprietary rights necessary and convenient for the construction, operation and maintenance of an interoceanic canal by way of the San Juan River and the great Lake of Nicaragua or by way of any route over Nicaraguan territory, the details of the terms upon which such canal shall be constructed, operated and maintained to be agreed to by the two governments whenever the Government of the United States shall notify the Government of Nicaragua of its desire or intention to construct such canal.

Article II

To enable the Government of the United States to protect the Panama Canal and the proprietary rights granted to the Government of the United States by the foregoing article, and also to enable the Government of the United States to take any measure necessary

to the ends contemplated herein, the Government of Nicaragua hereby leases for a term of ninety-nine years to the Government of the United States the islands in the Caribbean Sea known as Great Corn Island and Little Corn Island; and the Government of Nicaragua further grants to the Government of the United States for a like period of ninety-nine years the right to establish, operate and maintain a naval base at such place on the territory of Nicaragua bordering upon the Gulf of Fonseca as the Government of the United States may select. The Government of the United States shall have the option of renewing for a further term of ninety-nine years the above leases and grants upon the expiration of their respective terms, it being expressly agreed that the territory hereby leased and the naval base which may be maintained under the grant aforesaid shall be subject exclusively to the laws and sovereign authority of the United States during the terms of such lease and grant and of any renewal or renewals thereof.

ARTICLE III

In consideration of the foregoing stipulations and for the purposes contemplated by this Convention and for the purpose of reducing the present indebtedness of Nicaragua, the Government of the United States shall, upon the date of the exchange of ratification of this Convention, pay for the benefit of the Republic of Nicaragua the sum of three million dollars United States gold coin, of the present weight and fineness, to be deposited to the order of the Government of Nicaragua in such bank or banks or with such banking corporation as the Government of the United States may determine, to be applied by Nicaragua upon its indebtedness or other public purposes for the advancement of the welfare of Nicaragua in a manner to be determined by the two High Contracting Parties, all such disbursements to be made by orders drawn by the Minister of Finance of the Republic of Nicaragua and approved by the Secretary of State of the United States or by such person as he may designate.

ARTICLE IV

This Convention shall be ratified by the High Contracting Parties in accordance with their respective laws, and the ratifications thereof shall be exchanged at Washington as soon as possible.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done at Washington, in duplicate, in the English and Spanish languages, on the 5th day of August, in the year nineteen hundred and fourteen.

WILLIAM JENNINGS BRYAN [SEAL.]
EMILIANO CHAMORRO [SEAL.]

And whereas, the advice and consent of the Senate of the United States to the ratification of the said Convention was given with the following proviso: "*Provided*, That, whereas, Costa Rica, Salvador and Honduras have protested against the ratification of the said Convention in the fear or belief that said Convention might in some respect impair existing rights of said States; therefore, it is declared by the Senate that in advising and consenting to the ratification of the said Convention as amended such advice and consent are given with the understanding, to be expressed as a part of the instrument of ratification, that nothing in said Convention is intended to affect any existing right of any of the said named States;"

And whereas, the said understanding has been accepted by the Government of Nicaragua;

And whereas, the said Convention, as amended by the Senate of the United States, has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-second day of June, one thousand nine hundred and sixteen;

Now, therefore, be it known that I, Woodrow Wilson, President of the United States of America, have caused the said Convention, as amended, and the said understanding to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this twenty-fourth of June in the year of our Lord one thousand nine hundred and sixteen, and of the Independence of the United States of America the one hundred and fortieth.

[SEAL.] WOODROW WILSON

By the President:

ROBERT LANSING,

Secretary of State.

DANISH WEST INDIES

CONVENTION BETWEEN THE UNITED STATES AND DENMARK[8]— CESSION OF THE DANISH WEST INDIES

[Signed at New York, August 4, 1916; ratification advised by the Senate, September 7, 1916; ratified by the President, January 16, 1917; ratified by Denmark, December 22, 1916; ratifications exchanged at Washington, January 17, 1917; proclaimed, January 25, 1917]

By the President of the United States of America

A PROCLAMATION

Whereas a Convention between the United States of America and Denmark providing for the cession to the United States of all territory asserted or claimed by Denmark in the West Indies, including the islands of St. Thomas, St. John and St. Croix, together with the adjacent islands and rocks, was concluded and signed by their respective plenipotentiaries at the City of New York on the fourth day of August, one thousand nine hundred and sixteen, the original of which Convention, being in the English and Danish languages, is word for word as follows:

The United States of America and His Majesty the King of Denmark being desirous of confirming the good understanding which exists between them, have to that end appointed as Plenipotentiaries:

The President of the United States:

Mr. Robert Lansing, Secretary of State of the United States,

and His Majesty the King of Denmark:

Mr. Constantin Brun, His Majesty's Envoy extraordinary and Minister plenipotentiary at Washington,

who, having mutually exhibited their full powers which were found to be in due form, have agreed upon the following articles:

Article 1

His Majesty the King of Denmark by this convention cedes to the United States all territory, dominion and sovereignty, possessed, asserted or claimed by Denmark in the West Indies including the Islands of Saint Thomas, Saint John and Saint Croix together with the adjacent islands and rocks.

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[8] Treaty Series No. 629.

This cession includes the right of property in all public, government, or crown lands, public buildings, wharves, ports, harbors, fortifications, barracks, public funds, rights, franchises, and privileges, and all other public property of every kind or description now belonging to Denmark together with all appurtenances thereto.

In this cession shall also be included any government archives, records, papers or documents which relate to the cession or the rights and property of the inhabitants of the Islands ceded, and which may now be existing either in the Islands ceded or in Denmark. Such archives and records shall be carefully preserved, and authenticated copies thereof, as may be required shall be at all times given to the United States Government or the Danish Government, as the case may be, or to such properly authorized persons as may apply for them.

ARTICLE 2

Denmark guarantees that the cession made by the preceding article is free and unencumbered by any reservations, privileges, franchises, grants, or possessions, held by any governments, corporations, syndicates, or individuals, except as herein mentioned. But it is understood that this cession does not in any respect impair private rights which by law belong to the peaceful possession of property of all kinds by private individuals of whatsoever nationality, by municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the Islands ceded.

The congregations belonging to the Danish National Church shall retain the undisturbed use of the churches which are now used by them, together with the parsonages appertaining thereunto and other appurtenances, including the funds allotted to the churches.

ARTICLE 3

It is especially agreed, however, that:

(1) The arms and military stores existing in the Islands at the time of the cession and belonging to the Danish Government shall remain the property of that Government and shall, as soon as circumstances will permit, be removed by it, unless they, or parts thereof, may have been bought by the Government of the United States; it being however understood that flags and colors, uniforms and such arms or military articles as are marked as being the property of the Danish Government shall not be included in such purchase.

(2) The movables, especially silver plate and pictures which may be found in the government buildings in the islands ceded and belonging to the Danish Government shall remain the property of that

Government and shall, as soon as circumstances will permit, be removed by it.

(3) The pecuniary claims now held by Denmark against the colonial treasuries of the islands ceded are altogether extinguished in consequence of this cession and the United States assumes no responsibility whatsoever for or in connection with these claims. Excepted is however the amount due to the Danish Treasury in account current with the West-Indian colonial treasuries pursuant to the making up of accounts in consequence of the cession of the islands; should on the other hand this final accounting show a balance in favour of the West-Indian colonial treasuries, the Danish Treasury shall pay that amount to the colonial treasuries.

(4) The United States will maintain the following grants, concessions and licenses, given by the Danish Government, in accordance with the terms on which they are given:

a. The concession granted to "Det vestindiske Kompagni" (the West-Indian Company) Ltd. by the communications from the Ministry of Finance of January 18th 1913 and of April 16th 1913 relative to a license to embank, drain, deepen and utilize certain areas in St. Thomas Harbor and preferential rights as to commercial, industrial or shipping establishments in the said Harbor.

b. Agreement of August 10th and 14th, 1914 between the municipality of St. Thomas and St. John and "Det vestindiske Kompagni" Ltd. relative to the supply of the city of Charlotte Amalie with electric lighting.

c. Concession of March 12th 1897 to "The Floating Dock Company of St. Thomas Ltd.", subsequently transferred to "The St. Thomas Engineering and Coaling Company Ltd." relative to a floating dock in St. Thomas Harbor, in which concession the maintenance, extension, and alteration of the then existing repairing slip are reserved.

d. Royal Decree Nr. 79 of November 30th 1914 relative to the subsidies from the colonial treasuries of St. Thomas and Sainte Croix to "The West India and Panama Telegraph Company Ltd."

e. Concession of November 3rd, 1906, to K. B. Hey to establish and operate a telephone system on St. Thomas island, which concession has subsequently been transferred to the "St. Thomas Telefonselskab" Ltd.

f. Concession of February 28th 1913 to the municipality of Sainte Croix to establish and operate a telephone system in Sainte Croix.

g. Concession of July 16th 1915 to Ejnar Svendsen, an Engineer, for the construction and operation of an electric light plant in the city of Christiansted, Sainte Croix.

h. Concession of June 20th 1904 for the establishment of a Danish West-Indian bank of issue. This bank has for a period of 30 years

acquired the monopoly to issue bank-notes in the Danish West-India islands against the payment to the Danish Treasury of a tax amounting to ten percent of its annual profits.

i. Guarantee according to the Danish supplementary Budget Law for the financial year 1908–1909 relative to the St. Thomas Harbor's four percent loan of 1910.

(5) Whatever sum shall be due to the Danish Treasury by private individuals on the date of the exchange of ratifications are reserved and do not pass by this cession; and where the Danish Government at that date holds property taken over by the Danish Treasury for sums due by private individuals, such property shall not pass by this cession, but the Danish Government shall sell or dispose of such property and remove its proceeds within two years from the date of the exchange of ratifications of this convention; the United States Government being entitled to sell by public auction, to the credit of the Danish Government, any portion of such property remaining unsold at the expiration of the said term of two years.

(6) The Colonial Treasuries shall continue to pay the yearly allowances now given to heretofore retired functionaries appointed in the islands but holding no Royal Commissions, unless such allowances may have until now been paid in Denmark.

Article 4

The Danish Government shall appoint with convenient despatch an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States, the territory, dominion, property, and appurtenances which are ceded hereby, and for doing any other act which may be necessary in regard thereto. Formal delivery of the territory and property ceded shall be made immediately after the payment by the United States of the sum of money stipulated in this convention; but the cession with the right of immediate possession is nevertheless to be deemed complete on the exchange of ratifications of this convention without such formal delivery. Any Danish military or naval forces which may be in the islands ceded shall be withdrawn as soon as may be practicable after the formal delivery, it being however understood that if the persons constituting these forces, after having terminated their Danish service, do not wish to leave the Islands, they shall be allowed to remain there as civilians.

Article 5

In full consideration of the cession made by this convention, the United States agrees to pay, within ninety days from the date of the

exchange of the ratifications of this convention, in the City of Washington to the diplomatic representative or other agent of His Majesty the King of Denmark duly authorized to receive the money, the sum of twenty-five million dollars in gold coin of the United States.

Article 6

Danish citizens residing in said islands may remain therein or may remove therefrom at will, retaining in either event all their rights of property, including the right to sell or dispose of such property or its proceeds; in case they remain in the Islands, they shall continue until otherwise provided, to enjoy all the private, municipal and religious rights and liberties secured to them by the laws now in force. If the present laws are altered, the said inhabitants shall not thereby be placed in a less favorable position in respect to the above mentioned rights and liberties than they now enjoy. Those, who remain in the islands may preserve their citizenship in Denmark by making before a court of record, within one year from the date of the exchange of ratifications of this convention, a declaration of their decision to preserve such citizenship; in default of which declaration they shall be held to have renounced it, and to have accepted citizenship in the United States; for children under eighteen years the said declaration may be made by their parents or guardians. Such election of Danish citizenship shall however not, after the lapse of the said term of one year, be a bar to their renunciation of their preserved Danish citizenship and their election of citizenship in the United States and admission to the nationality thereof on the same terms as may be provided according to the laws of the United States, for other inhabitants of the islands.

The civil rights and the political status of the inhabitants of the islands shall be determined by the Congress, subject to the stipulations contained in the present convention.

Danish citizens not residing in the islands but owning property therein at the time of the cession, shall retain their rights of property, including the right to sell or dispose of such property, being placed in this regard on the same basis as the Danish citizens residing in the islands and remaining therein or removing therefrom, to whom the first paragraph of this article relates.

Article 7

Danish subjects residing in the Islands shall be subject in matters civil as well as criminal to the jurisdiction of the courts of the Islands, pursuant to the ordinary laws governing the same, and they shall have the right to appear before such courts, and to pursue the same course therein as citizens of the country to which the courts belong.

ARTICLE 8

Judicial proceedings pending at the time of the formal delivery in the islands ceded shall be determined according to the following rules:

(1) Judgments rendered either in civil suits between private individuals, or in criminal matters, before the date mentioned, and with respect to which there is no recourse or right to review under Danish law, shall be deemed to be final, and shall be executed in due form and without any renewed trial whatsoever, by the competent authority in the territories within which such judgments are to be carried out.

If in a criminal case a mode of punishment has been applied which, according to new rules, is no longer applicable on the islands ceded after delivery, the nearest corresponding punishment in the new rules shall be applied.

(2) Civil suits or criminal actions pending before the first courts, in which the pleadings have not been closed at the same time, shall be confirmed before the tribunals established in the ceded islands after the delivery, in accordance with the law which shall thereafter be in force.

(3) Civil suits and criminal actions pending at the said time before the Superior Court or the Supreme Court in Denmark shall continue to be prosecuted before the Danish courts until final judgment according to the law hitherto in force. The judgment shall be executed in due form by the competent authority in the territories within which such judgment should be carried out.

ARTICLE 9

The rights of property secured by copyrights and patents acquired by Danish subjects in the Islands ceded at the time of exchange of the ratifications of this treaty, shall continue to be respected.

ARTICLE 10

Treaties, conventions and all other international agreements of any nature existing between Denmark and the United States shall *eo ipso* extend, in default of a provision to the contrary, also to the ceded islands.

ARTICLE 11

In case of differences of opinion arising between the High Contracting Parties in regard to the interpretation or application of this convention, such differences, if they cannot be regulated through

diplomatic negotiations, shall be submitted for arbitration to the permanent Court of Arbitration at The Hague.

ARTICLE 12

The ratifications of this convention shall be exchanged at Washington as soon as possible after ratification by both of the High Contracting Parties according to their respective procedure.

In faith whereof the respective plenipotentiaries have signed and sealed this convention in the English and Danish languages.

Done at New York this fourth day of August, one thousand nine hundred and sixteen.

[SEAL.] ROBERT LANSING.
[SEAL.] C. BRUN.

And whereas in giving advice and consent to the ratification of the said Convention, it was declared by the Senate of the United States in their resolution that "such advice and consent are given with the understanding, to be expressed as a part of the instrument of ratification, that such Convention shall not be taken and construed by the High Contracting Parties as imposing any trust upon the United States with respect to any funds belonging to the Danish National Church in the Danish West Indian Islands, or in which the said Church may have an interest, nor as imposing upon the United States any duty or responsibility with respect to the management of any property belonging to said Church, beyond protecting said Church in the possession and use of church property as stated in said Convention, in the same manner and to the same extent only as other churches shall be protected in the possession and use of their several properties;"

And whereas it was further provided in the said resolution "That the Senate advises and consents to the ratification of the said Convention on condition that the attitude of the United States in this particular, as set forth in the above proviso, be made the subject of an exchange of notes between the Governments of the two High Contracting Parties, so as to make it plain that this condition is understood and accepted by the two Governments, the purpose hereof being to bring the said Convention clearly within the Constitutional powers of the United States with respect to church establishment and freedom of religion";

And whereas this condition has been fulfilled by notes exchanged between the two High Contracting Parties on January 3, 1917;

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged

in the City of Washington, on the seventeenth day of January, one thousand nine hundred and seventeen;

Now, therefore, be it known that I, Woodrow Wilson, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof, subject to the said understanding of the Senate of the United States.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this twenty-fifth day of January in the year of our Lord one thousand nine hundred and seventeen, and of the Independence of the United States of America the one hundred and forty-first.

[SEAL.] WOODROW WILSON

By the President:

ROBERT LANSING,
Secretary of State.

DECLARATION

In proceeding this day to the signature of the Convention respecting the cession of the Danish West Indian Islands to the United States of America, the undersigned Secretary of State of the United States of America, duly authorized by his Government, has the honor to declare that the Government of the United States of America will not object to the Danish Government extending their political and economic interests to the whole of Greenland.

ROBERT LANSING.

NEW YORK, *August 4, 1916.*

[EXCHANGE OF NOTES MENTIONED IN PROCLAMATION]

[*The Secretary of State to the Danish Minister*]

DEPARTMENT OF STATE,
Washington, January 3, 1917.

SIR: I have the honor to inform you that the Senate of the United States by its resolution of ratification has advised and consented to the ratification of the convention between the United States and Denmark, ceding to the United States the Danish West Indian Islands, with the following provisos:

Provided, however, That it is declared by the Senate that in advising and consenting to the ratification of the said convention, such advice and consent are given with the understanding, to be expressed as a part of the instrument of ratification, that such Convention shall not be taken and construed by the High Contracting Parties as imposing any trust upon the United

States with respect to any funds belonging to the Danish National Church in the Danish West Indian Islands, or in which the said church may have an interest, nor as imposing upon the United States any duty or responsibility with respect to the management of any property belonging to said church, beyond protecting said church in the possession and use of church property as stated in said Convention, in the same manner and to the same extent only as other churches shall be protected in the possession and use of their several properties. And provided further, that the Senate advises and consents to the ratification of the said Convention on condition that the attitude of the United States in this particular, as set forth in the above proviso, be made the subject of an exchange of notes between the Governments of the two High Contracting Parties, so as to make it plain that this condition is understood and accepted by the two Governments, the purpose hereof being to bring the said Convention clearly within the Constitutional powers of the United States with respect to church establishment and freedom of religion.

In view of this resolution of the Senate I have the honor to state that it is understood and accepted by the Government of the United States and the Government of Denmark that the provisions of this Convention referring to the property and funds belonging to the Danish National Church in the Danish West Indian Islands shall not be taken and construed by the High Contracting Parties as imposing any trust upon the United States with respect to any funds belonging to the Danish National Church in the Danish West Indian Islands, or in which the said church may have an interest nor as imposing upon the United States any duty or responsibility with respect to the management of any property belonging to said church, beyond protecting said church in the possession and use of church property as stated in said Convention, in the same manner and to the same extent only as other churches shall be protected in the possession and use of their several properties.

I trust that your Government will in a formal reply to this communication accept this understanding as to the meaning and construction of the provisions of said Convention in accordance with the foregoing resolution of the Senate.

Accept, Sir, the renewed assurances of my highest consideration.

ROBERT LANSING

Mr. CONSTANTIN BRUN,
Minister of Denmark.

[*The Danish Minister to the Secretary of State*]

THE DANISH LEGATION
Washington, D. C., January 3rd 1917.

SIR: In reply to your communication of this day concerning the relation of the United States to the rights of the Established Church

in the Danish West Indies and to the provisions referring to this point in the convention between the United States and Denmark ceding to the States the Danish West Indian Islands, I have the honour to state that it is understood and accepted by the Government of Denmark and the Government of the United States that the provisions of his convention referring to the property and funds belonging to the Danish National Church in the Danish West Indian Islands, shall not be taken and construed by the high contracting parties as imposing any trust upon the United States with respect to any funds belonging to the Danish National Church in the Danish West Indian Islands or in which the said Church may have an interest nor as imposing upon the United States any duty or responsibility with respect to the management of any property belonging to said church beyond protecting said church in the possession and use of church property as stated in said convention in the same manner and to the same extent only as other churches shall be protected in the possession and use of their several properties.

It will be evident from the above that the Danish Government accept the understanding as to the meaning and construction of the provisions of the said convention in accordance with the resolution of the United States Senate concerning the question of the rights of the Church in the Islands.

I have the honor to be, Sir, with the highest consideration,

Your most obedient and humble servant,

C. BRUN.

The Honorable ROBERT LANSING,

Secretary of State of the United States.

SPITSBERGEN

TREATY BETWEEN THE UNITED STATES AND OTHER POWERS RELATING TO SPITSBERGEN [9]

[Signed at Paris, February 9, 1920; ratification advised by the Senate, February 18, 1924; ratified by the President, March 4, 1924; ratification of the United States, deposited with the Government of France, April 2, 1924; proclaimed, June 10, 1924]

By the President of the United States of America

A PROCLAMATION

Whereas a Treaty relating to Spitsbergen was signed at Paris on February 9, 1920, by the plenipotentiaries of the United States, Great Britain, Denmark, France, Italy, Japan, Norway, the Netherlands, and Sweden, the original of which Treaty being in the English and French languages is word for word as follows:

The President of the United States of America; His Majesty the King of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Denmark; the President of the French Republic; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; His Majesty the King of Sweden,

Desirous, while recognising the sovereignty of Norway over the Archipelago of Spitsbergen, including Bear Island, of seeing these territories provided with an equitable régime, in order to assure their development and peaceful utilisation,

Have appointed as their respective Plenipotentiaries with a view to concluding a Treaty to this effect:

The President of the United States of America:

Mr. Hugh Campbell Wallace, Ambassador Extraordinary and Plenipotentiary of the United States of America at Paris;

His Majesty the King of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

The Right Honourable the Earl of Derby, K. G., G. C. V. O., C. B., His Ambassador Extraordinary and Plenipotentiary at Paris;

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And

for the Dominion of Canada:

The Right Honourable Sir George Halsey Perley, K. C. M. G., High Commissioner for Canada in the United Kingdom;

for the Commonwealth of Australia:

The Right Honourable Andrew Fisher, High Commissioner for Australia in the United Kingdom;

for the Dominion of New Zealand:

The Right Honourable Sir Thomas MacKenzie, K. C. M. G., High Commissioner for New Zealand in the United Kingdom;

for the Union of South Africa:

Mr. Reginald Andrew Blankenberg, O. B. E., Acting High Commissioner for South Africa in the United Kingdom;

for India:

The Right Honourable the Earl of Derby, K. G., G. C. V. O., C. B.;

His Majesty the King of Denmark:

Mr. Herman Anker Bernhoft, Envoy Extraordinary and Minister Plenipotentiary of H. M. the King of Denmark at Paris;

The President of the French Republic:

Mr. Alexander Millerand, President of the Council, Minister for Foreign Affairs;

His Majesty the King of Italy:

The Honorable Maggiorino Ferraris, Senator of the Kingdom;

His Majesty the Emperor of Japan:

Mr. K. Matsui, Ambassador Extraordinary and Plenipotentiary of H. M. the Emperor of Japan at Paris;

His Majesty the King of Norway:

Baron Wedel Jarlsberg, Envoy Extraordinary and Minister Plenipotentiary of H. M. the King of Norway at Paris;

Her Majesty the Queen of the Netherlands:

Mr. John Loudon, Envoy Extraordinary and Minister Plenipotentiary of H. M. the Queen of the Netherlands at Paris;

His Majesty the King of Sweden:

Count J.-J.-A. Ehrensvärd, Envoy Extraordinary and Minister Plenipotentiary of H. M. the King of Sweden at Paris;

Who, having communicated their full powers, found in good and due form, have agreed as follows:

Article 1

The High Contracting Parties undertake to recognise, subject to the stipulations of the present Treaty, the full and absolute sovereignty of Norway over the Archipelago of Spitsbergen, comprising, with Bear Island or Beeren-Eiland, all the islands situated between 10° and 35° longitude East of Greenwich and between 74° and 81° latitude North, especially West Spitsbergen, North-East Land, Barents Island, Edge Island, Wiche Islands, Hope Island or Hopen-Eiland, and Prince Charles Foreland, together with all islands great or small and rocks appertaining thereto (see annexed map).

Article 2

Ships and nationals of all the High Contracting Parties shall enjoy equally the rights of fishing and hunting in the territories specified in Article 1 and in their territorial waters.

Norway shall be free to maintain, take or decree suitable measures to insure the preservation and, if necessary, the re-constitution of the fauna and flora of the said regions, and their territorial waters; it being clearly understood that these measures shall always be applicable equally to the nationals of all the High Contracting Parties without any exemption, privilege or favour whatsoever, direct or indirect to the advantage of any one of them.

Occupiers of land whose rights have been recognised in accordance with the terms of Articles 6 and 7 will enjoy the exclusive right of hunting on their own land: (1) in the neighbourhood of their habitations, houses, stores, factories and installations, constructed for the purpose of developing their property, under conditions laid down by the local police regulations; (2) within a radius of 10 kilometres round the headquarters of their place of business or works; and in both cases, subject always to the observance of regulations made by the Norwegian Government in accordance with the conditions laid down in the present Article.

Article 3

The nationals of all the High Contracting Parties shall have equal liberty of access and entry for any reason or object whatever to the waters, fjords and ports of the territories specified in Article 1; subject to the observance of local laws and regulations, they may carry on there without impediment all maritime, industrial, mining and commercial operations on a footing of absolute equality.

They shall be admitted under the same conditions of equality to the exercise and practice of all maritime, industrial, mining or com-

mercial enterprises both on land and in the territorial waters, and no monopoly shall be established on any account or for any enterprise whatever.

Notwithstanding any rules relating to coasting trade which may be in force in Norway, ships of the High Contracting Parties going to or coming from the territories specified in Article 1 shall have the right to put into Norwegian ports on their outward or homeward voyage for the purpose of taking on board or disembarking passengers or cargo going to or coming from the said territories, or for any other purpose.

It is agreed that in every respect and especially with regard to exports, imports and transit traffic, the nationals of all the High Contracting Parties, their ships and goods shall not be subject to any charges or restrictions whatever which are not borne by the nationals, ships or goods which enjoy in Norway the treatment of the most favoured nation; Norwegian nationals, ships or goods being for this purpose assimilated to those of the other High Contracting Parties, and not treated more favourably in any respect.

No charge or restriction shall be imposed on the exportation of any goods to the territories of any of the Contracting Powers other or more onerous than on the exportation of similar goods to the territory of any other Contracting Power (including Norway) or to any other destination.

Article 4

All public wireless telegraphy stations established or to be established by, or with the authorisation of, the Norwegian Government within the territories referred to in Article 1 shall always be open on a footing of absolute equality to communications from ships of all flags and from nationals of the High Contracting Parties, under the conditions laid down in the Wireless Telegraphy Convention of July 5, 1912, or in the subsequent International Convention which may be concluded to replace it.

Subject to international obligations arising out of a state of war, owners of landed property shall always be at liberty to establish and use for their own purposes wireless telegraphy installations, which shall be free to communicate on private business with fixed or moving wireless stations, including those on board ships and aircraft.

Article 5

The High Contracting Parties recognise the utility of establishing an international meteorological station in the territories specified in Article 1, the organisation of which shall form the subject of a subsequent Convention.

Conventions shall also be concluded laying down the conditions under which scientific investigations may be conducted in the said territories.

ARTICLE 6

Subject to the provisions of the present Article, acquired rights of nationals of the High Contracting Parties shall be recognised.

Claims arising from taking possession or from occupation of land before the signature of the present Treaty shall be dealt with in accordance with the Annex hereto, which will have the same force and effect as the present Treaty.

ARTICLE 7

With regard to methods of acquisition, enjoyment and exercise of the right of ownership of property, including mineral rights, in the territories specified in Article 1, Norway undertakes to grant to all nationals of the High Contracting Parties treatment based on complete equality and in conformity with the stipulations of the present Treaty.

Expropriation may be resorted to only on grounds of public utility and on payment of proper compensation.

ARTICLE 8

Norway undertakes to provide for the territories specified in Article 1 mining regulations which, especially from the point of view of imposts, taxes or charges of any kind, and of general or particular labour conditions, shall exclude all privileges, monopolies or favours for the benefit of the State or of the nationals of any one of the High Contracting Parties, including Norway, and shall guarantee to the paid staff of all categories the remuneration and protection necessary for their physical, moral and intellectual welfare.

Taxes, dues and duties levied shall be devoted exclusively to the said territories and shall not exceed what is required for the object in view.

So far, particularly, as the exportation of minerals is concerned, the Norwegian Government shall have the right to levy an export duty which shall not exceed 1% of the maximum value of the minerals exported up to 100,000 tons, and beyond that quantity the duty will be proportionately diminished. The value shall be fixed at the end of the navigation season by calculating the average free on board price obtained.

Three months before the date fixed for their coming into force, the draft mining regulations shall be communicated by the Nor-

wegian Government to the other Contracting Powers. If during this period one or more of the said Powers propose to modify these regulations before they are applied, such proposals shall be communicated by the Norwegian Government to the other Contracting Powers in order that they may be submitted to examination and the decision of a Commission composed of one representative of each of the said Powers. This Commission shall meet at the invitation of the Norwegian Government and shall come to a decision within a period of three months from the date of its first meeting. Its decisions shall be taken by a majority.

ARTICLE 9

Subject to the rights and duties resulting from the admission of Norway to the League of Nations, Norway undertakes not to create nor to allow the establishment of any naval base in the territories specified in Article 1 and not to construct any fortification in the said territories, which may never be used for warlike purposes.

ARTICLE 10

Until the recognition by the High Contracting Parties of a Russian Government shall permit Russia to adhere to the present Treaty, Russian nationals and companies shall enjoy the same rights as nationals of the High Contracting Parties.

Claims in the territories specified in Article 1 which they may have to put forward shall be presented under the conditions laid down in the present Treaty (Article 6 and Annex) through the intermediary of the Danish Government, who declare their willingness to lend their good offices for this purpose.

The present Treaty, of which the French and English texts are both authentic, shall be ratified.

Ratifications shall be deposited at Paris as soon as possible.

Powers of which the seat of the Government is outside Europe may confine their action to informing the Government of the French Republic, through their diplomatic representative at Paris, that their ratification has been given, and in this case, they shall transmit the instrument as soon as possible.

The present Treaty will come into force, in so far as the stipulations of Article 8 are concerned, from the date of its ratification by all the signatory Powers; and in all other respects on the same date as the mining regulations provided for in that Article.

Third Powers will be invited by the Government of the French Republic to adhere to the present Treaty duly ratified. This adhesion shall be effected by a communication addressed to the French

Government, which will undertake to notify the other Contracting Parties.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty.

Done at Paris, the ninth day of February, 1920, in duplicate, one copy to be transmitted to the Government of His Majesty the King of Norway, and one deposited in the archives of the French Republic; authenticated copies will be transmitted to the other Signatory Powers.

[L. S.]	HUGH C. WALLACE.	[L. S.]	H. A. BERNHOFT.
[L. S.]	DERBY.	[L. S.]	A. MILLERAND.
[L. S.]	GEORGE H. PERLEY.	[L. S.]	MAGGIORINO FERRARIS.
[L. S.]	ANDREW FISHER.	[L. S.]	K. MATSUI.
[L. S.]	TH. MACKENZIE.	[L. S.]	WEDEL JARLSBERG.
[L. S.]	R. A. BLANKENBERG.	[L. S.]	J. LOUDON.
[L. S.]	DERBY.	[L. S.]	J. EHRENSVARD.

ANNEX

1

(1) Within three months from the coming into force of the present Treaty, notification of all claims to land which had been made to any Government before the signature of the present Treaty must be sent by the Government of the claimant to a Commissioner charged to examine such claims. The Commissioner will be a judge or jurisconsult of Danish nationality possessing the necessary qualifications for the task, and shall be nominated by the Danish Government.

(2) The notification must include a precise delimitation of the land claimed and be accompanied by a map on a scale of not less than 1/1,000,000 on which the land claimed is clearly marked.

(3) The notification must be accompanied by the deposit of a sum of one penny for each acre (40 acres) of land claimed, to defray the expenses of the examination of the claims.

(4) The Commissioner will be entitled to require from the claimants any further documents or information which he may consider necessary.

(5) The Commissioner will examine the claims so notified. For this purpose he will be entitled to avail himself of such expert assistance as he may consider necessary, and in case of need to cause investigations to be carried out on the spot.

(6) The remuneration of the Commissioner will be fixed by agreement between the Danish Government and the other Governments

concerned. The Commissioner will fix the remuneration of such assistants as he considers it necessary to employ.

(7) The Commissioner, after examining the claims, will prepare a report showing precisely the claims which he is of opinion should be recognised at once and those which, either because they are disputed or for any other reason, he is of opinion should be submitted to arbitration as hereinafter provided. Copies of this report will be forwarded by the Commissioner to the Governments concerned.

(8) If the amount of the sums deposited in accordance with clause (3) is insufficient to cover the expenses of the examination of the claims, the Commissioner will, in every case where he is of opinion that a claim should be recognised, at once state what further sum the claimant should be required to pay. This sum will be based on the amount of the land to which the claimant's title is recognised.

If the sums deposited in accordance with clause (3) exceed the expenses of the examination, the balance will be devoted to the cost of the arbitration hereinafter provided for.

(9) Within three months from the date of the report referred to in clause (7) of this paragraph, the Norwegian Government shall take the necessary steps to confer upon claimants whose claims have been recognised by the Commissioner a valid title securing to them the exclusive property in the land in question, in accordance with the laws and regulations in force or to be enforced in the territories specified in Article 1 of the present Treaty, and subject to the mining regulations referred to in Article 8 of the present Treaty.

In the event, however, of a further payment being required in accordance with clause (8) of this paragraph, a provisional title only will be delivered, which title will become definitive on payment by the claimant, within such reasonable period as the Norwegian Government may fix, of the further sum required of him.

2

Claims which for any reason the Commissioner referred to in clause (1) of the preceding paragraph has not recognised as valid will be settled in accordance with the following provisions:

(1) Within three months from the date of the report referred to in clause (7) of the preceding paragraph, each of the Governments whose nationals have been found to possess claims which have not been recognised will appoint an arbitrator.

The Commissioner will be the President of the Tribunal so constituted. In cases of equal division of opinion, he shall have the deciding vote. He will nominate a Secretary to receive the documents referred to in clause (2) of this paragraph and to make the necessary arrangements for the meeting of the Tribunal.

(2) Within one month from the appointment of the Secretary referred to in clause (1) the claimants concerned will send to him through the intermediary of their respective Governments statements indicating precisely their claims and accompanied by such documents and arguments as they may wish to submit in support thereof.

(3) Within two months from the appointment of the Secretary referred to in clause (1) the Tribunal shall meet at Copenhagen for the purpose of dealing with the claims which have been submitted to it.

(4) The language of the Tribunal shall be English. Documents or arguments may be submitted to it by the interested parties in their own language, but in that case must be accompanied by an English translation.

(5) The claimants shall be entitled, if they so desire, to be heard by the Tribunal either in person or by counsel, and the Tribunal shall be entitled to call upon the claimants to present such additional explanations, documents or arguments as it may think necessary.

(6) Before the hearing of any case the Tribunal shall require from the parties a deposit or security for such sum as it may think necessary to cover the share of each party in the expenses of the Tribunal. In fixing the amount of such sum the Tribunal shall base itself principally on the extent of the land claimed. The Tribunal shall also have power to demand a further deposit from the parties in cases where special expense is involved.

(7) The honorarium of the arbitrators shall be calculated per month, and fixed by the Governments concerned. The salary of the Secretary and any other persons employed by the Tribunal shall be fixed by the President.

(8) Subject to the provisions of this Annex the Tribunal shall have full power to regulate its own procedure.

(9) In dealing with the claims the Tribunal shall take into consideration:

(*a*) any applicable rules of International Law;

(*b*) the general principles of justice and equity;

(*c*) the following circumstances:

(i) the date on which the land claimed was first occupied by the claimant or his predecessors in title;

(ii) the date on which the claim was notified to the Government of the claimant;

(iii) the extent to which the claimant or his predecessors in title have developed and exploited the land claimed. In this connection the Tribunal shall take into account

the extent to which the claimants may have been prevented from developing their undertakings by conditions or restrictions resulting from the war of 1914–1919.

(10) All the expenses of the Tribunal shall be divided among the claimants in such proportion as the Tribunal shall decide. If the amount of the sums paid in accordance with clause (6) is larger than the expenses of the Tribunal, the balance shall be returned to the parties whose claims have been recognised in such proportion as the Tribunal shall think fit.

(11) The decisions of the Tribunal shall be communicated by it to the Governments concerned, including in every case the Norwegian Government.

The Norwegian Government shall within three months from the receipt of each decision take the necessary steps to confer upon the claimants whose claims have been recognised by the Tribunal a valid title to the land in question, in accordance with the laws and regulations in force or to be enforced in the territories specified in Article 1, and subject to the mining regulations referred to in Article 8 of the present Treaty. Nevertheless, the titles so conferred will only become definitive on the payment by the claimant concerned, within such reasonable period as the Norwegian Government may fix, of his share of the expenses of the Tribunal.

3

Any claims which are not notified to the Commissioner in accordance with clause (1) of paragraph 1, or which not having been recognised by him are not submitted to the Tribunal in accordance with paragraph 2, will be finally extinguished.

And whereas, the said Treaty has been duly ratified by the Government of the United States, by and with the advice and consent of the Senate thereof, and the instrument of ratification was, in conformity with Article X of the Treaty, deposited with the Ministry for Foreign Affairs of the Government of the French Republic, at Paris, on April 2, 1924:

Now, therefore, be it known that I, Calvin Coolidge, President of the United States of America, have caused the said Treaty to be made public to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this tenth day of June in the year of our Lord one thousand nine hundred and twenty-four, and of the Independence of the United States of America the one hundred and forty-eighth.

[SEAL.] CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES

Secretary of State.

[NOTE BY THE DEPARTMENT OF STATE]

The map attached to the original treaty and referred to in Article 1 is not here reproduced.

NEUTRALISATION

CONVENTION RELATING TO THE NON-FORTIFICATION AND NEUTRALISATION OF THE AALAND ISLANDS, SIGNED AT GENEVA, OCTOBER 20, 1921 [10]

[Official text in French. The registration of this convention took place April 6, 1922]

The President of Germany, His Majesty the King of Denmark and of Iceland, the Head of State of the Esthonian Republic, The President of the Republic of Finland, the President of the French Republic, His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, His Majesty the King of Italy, the Head of State of the Republic of Latvia, the Head of the Polish State, and His Majesty the King of Sweden, having agreed to carry out the recommendation formulated by the Council of the League of Nations in its Resolution of June 24, 1921, that a Convention should be concluded between the interested Powers with a view to the non-fortification and neutralisation of the Aaland Islands in order that these islands may never become a cause of danger from the military point of view;

Have resolved for this purpose to supplement without prejudice thereto, the obligations assumed by Russia in the Convention of March 30, 1856, regarding the Aaland Islands, annexed to Treaty of Paris of the same date;

And have appointed the following as their plenipotentiaries:

(Names of plenipotentiaries)

Who, having deposited their full powers, found in good and due form, have agreed upon the following provisions:

Article 1

Finland, confirming, for her part, as far as necessary, the declaration made by Russia in the Convention of March 30, 1856, regarding the Aaland Islands, annexed to the Treaty of Paris of the same date, undertakes not to fortify that part of the Finnish Archipelago which is called "the Aaland Islands."

Article 2

I. The name "Aaland Islands" in the present Convention includes all the islands, islets and reefs situated in the stretch of sea bounded by the following lines:

[10] 1922, League of Nations, Treaty Series, Vol. IX, p. 213.

(*a*) On the North by the parallel of latitude 60° 41′ north;

(*b*) On the East by the straight lines joining successively the following geographical points:

(1)	Lat.	60°	41′.0	N.	and	long.	21°	00′.0	E.	of Greenwich
(2)	"	60°	35′.9	N.	"	"	21°	06′.9	E.	" "
(3)	"	60°	33′.3	N.	"	"	21°	08′.6	E.	" "
(4)	"	60°	15′.8	N.	"	"	21°	05′.5	E.	" "
(5)	"	60°	11′.4	N.	"	"	21°	00′.4	E.	" "
(6)	"	60°	09′.4	N.	"	"	21°	01′.2	E.	" "
(7)	"	60°	05′.5	N.	"	"	21°	04′.3	E.	" "
(8)	"	60°	01′.1	N.	"	"	21°	11′.3	E.	" "
(9)	"	59°	59′.0	N.	"	"	21°	08′.3	E.	" "
(10)	"	59°	53′.0	N.	"	"	21°	20′.0	E.	" "
(11)	"	59°	48′.5	N.	"	"	21°	20′.0	E.	" "
(12)	"	59°	27′.0	N.	"	"	20°	46′.3	E.	" "

(*c*) On the South by the parallel of latitude 59° 27′ North;

(*d*) On the West by the straight lines joining successively the following geographical points:

(13)	Lat.	59°	27′ .0	N.	and	long.	20°	09′ .7	E.	of Greenwich
(14)	"	59°	47′ .8	N.	"	"	19°	40′ .0	E.	" "
(15)	"	60°	11′ .8	N.	"	"	19°	05′ .5	E.	" "
(16)					Middle of Market rock					
	("	60°	18′ .4	N.	"	"	19°	08′ .5	E.	")
(17)	"	60°	41′ .0	N.	"	"	19°	14′ .4	E.	" "

The lines joining points 14, 15 and 16 are those fixed by "the Topographical Description of the Frontier between the Kingdom of Sweden and the Russian Empire in accordance with the demarcation of the year 1810, corrected to conform with the revision of 1888."

The position of all the points mentioned in this Article is generally taken from the British Admiralty map No. 2297, dated 1872 (corrected up to August 1921); but for greater precision the position of points 1 to 11 is taken from the following maps; Finnish maps No. 32, 1921, No. 29, 1920, and Russian map No. 742, 1916 (corrected in March 1916).

A copy of each of these maps is deposited with the Secretariat of the League of Nations.

II. The territorial waters of the Aaland Islands are considered to extend for a distance of three marine miles from the low-water mark on the islands, islets and reefs not permanently submerged, delimited above; nevertheless, these waters shall at no point extend beyond the lines fixed in § I of this Article.

III. The whole of the islands, islets and reefs delimited in paragraph I and of the territorial waters defined in paragraph II constitute the zone to which the following Articles apply.

Article 3

No military or naval establishment or base of operations, no military aircraft establishment or base of operations, and no other installation used for war purposes shall be maintained or set up in the zone described in Article 2.

Article 4

Except as provided in Article 7, no military, naval or air force of any Power shall enter or remain in the zone described in Article 2; the manufacture, import, transport and re-export of arms and implements of war in this zone are strictly forbidden.

The following provisions shall, however, be applied in time of peace:

(*a*) In addition to the regular police force necessary to maintain public order and security in the zone, in conformity with the general provisions in force in the Finnish Republic, Finland may, if exceptional circumstances demand, send into the zone and keep there temporarily such other armed forces as shall be strictly necessary for the maintenance of order.

(*b*) Finland also reserves the right for one or two of her light surface warships to visit the islands from time to time. These warships may then anchor temporarily in the waters of the islands. Apart from these ships, Finland may, if important special circumstances demand, send into the waters of the zone and keep there temporarily other surface ships, which must in no case exceed a total displacement of 6,000 tons.

The right to enter the archipelago and to anchor there temporarily cannot be granted by the Finnish Government to more than one warship of any other Power at a time.

(*c*) Finland may fly her military or naval aircraft over the zone, but, except in cases of *force majeure*, landing there is prohibited.

Article 5

The prohibition to send warships into the zone described in Article 2 or to station them there shall not prejudice the freedom of innocent passage through the territorial waters. Such passage shall continue to be governed by the international rules and usages in force.

Article 6

In time of war, the zone described in Article 2 shall be considered as a neutral zone and shall not, directly or indirectly, be used for any purpose connected with military operations.

Nevertheless, in the event of a war affecting the Baltic Sea, Finland shall have the right, in order to assure respect for the neutrality of the Aaland Islands, temporarily to lay mines in the territorial waters of these islands and for this purpose to take such measures of a maritime nature as are strictly necessary.

In such a case Finland shall at once refer the matter to the Council of the League of Nations.

Article 7

I. In order to render effective the guarantee provided in the Preamble of the present Convention, the High Contracting Parties shall apply, individually or jointly, to the Council of the League of Nations, asking that body to decide upon the measures to be taken either to assure the observance of the provisions of this Convention or to put a stop to any violation thereof.

The High Contracting Parties undertake to assist in the measures which the Council of the League of Nations may decide upon for this purpose.

When, for the purposes of this undertaking, the Council is called upon to make a decision under the above conditions, it will invite the Powers which are parties to the present Convention, whether Members of the League or not, to sit on the Council. The vote of the representative of the Power accused of having violated the provisions of this Convention shall not be necessary to constitute the unanimity required for the Council's decision.

If unanimity cannot be obtained, each of the High Contracting Parties shall be entitled to take any measures which the Council by a two-thirds majority recommends, the vote of the representative of the Power accused of having violated the provisions of this Convention not being counted.

II. If the neutrality of the zone should be imperilled by a sudden attack either against the Aaland Islands or across them against the Finnish mainland, Finland shall take the necessary measures in the zone to check and repulse the aggressor until such time as the High Contracting Parties shall in conformity with the provisions of this Convention, be in a position to intervene to enforce respect for the neutrality of the islands.

Finland shall refer the matter immediately to the Council.

Article 8

The provisions of this Convention shall remain in force in spite of any changes that may take place in the present *status quo* in the Baltic Sea.

ARTICLE 9

The Council of the League of Nations is requested to inform the Members of the League of the text of this Convention, in order that the legal status of the Aaland Islands, an integral part of the Republic of Finland, as defined by the provisions of this Convention, may, in the interests of general peace, be respected by all as part of the actual rules of conduct among Governments.

With the unanimous consent of the High Contracting Parties, this Convention may be submitted to any non-signatory Power whose accession may in future appear desirable, with a view to the formal adherence of such Power.

ARTICLE 10

This Convention shall be ratified. The protocol of the first deposit of ratification shall be drawn up as soon as the majority of the signatory Powers, including Finland and Sweden, are in a position to deposit their ratification.

The Convention shall come into force for each signatory or acceding Power immediately on the deposit of such Power's ratification or instrument of accession.

Deposit of ratification shall take place at Geneva with the Secretariat of the League of Nations, and any future instruments of accession shall also be deposited there.

In faith whereof the plenipotentiaries have signed this Convention and have annexed their seals thereto.

Done at Geneva, on the twentieth day of October, one thousand nine hundred and twenty-one, in a single copy, which shall remain in the Archives of the Secretariat of the League of Nations. A certified copy shall be sent by the Secretariat to each of the signatory Powers.

(Signatures of plenipotentiaries)

MANDATES [11]

CONVENTION BETWEEN THE UNITED STATES AND FRANCE RESPECTING RIGHTS IN SYRIA AND THE LEBANON [12]

[Signed at Paris, April 4, 1924; ratifications exchanged at Paris, July 13, 1924]

The President of the United States of America and the President of the French Republic,

Whereas by the Treaty of Peace concluded with the Allied Powers, Turkey renounces all her rights and titles over Syria and the Lebanon, and,

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[11] Mandates are usually designated as of class "A," "B," or "C," according as they are within former Turkish territory, Central Africa, or "South West Africa and certain of the South Pacific Islands." Article 22 of the Covenant of the League of Nations provides:

"To those colonies and territories which, as a consequence of the late war, have ceased to be under the sovereignty of the States which formerly governed them, and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation, and that securities for the performance of this trust should be embodied in this Covenant.

"The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who, by reason of their resources, their experience, or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

"The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions, and other similar circumstances.

"Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

"Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic, and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defense of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

"There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

"In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

"The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

"A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates."

The United States not being a party to the Covenant has negotiated special treaties in regard to several of the mandated areas, though not yet in regard to all.

[12] U. S. Treaty Series, No. 695.

Whereas Article 22 of the Covenant of the League of Nations in the Treaty of Versailles provides that in the case of certain territories which as a consequence of the late war ceased to be under the sovereignty of the states which formerly governed them, mandates should be issued and that the terms of the mandate should be explicitly defined in each case by the Council of the League, and,

Whereas the Principal Allied Powers have agreed to entrust the mandate for Syria and the Lebanon to France, and,

Whereas the terms of the said mandate have been defined by the Council of the League of Nations as follows:

ARTICLE 1.—The Mandatory shall frame, within a period of three years from the coming into force of this mandate, an organic law for Syria and the Lebanon.

This organic law shall be framed in agreement with the native authorities and shall take into account the rights, interests, and wishes of all the population inhabiting the said territory. The Mandatory shall further enact measures to facilities the progressive development of Syria and the Lebanon as independent States. Pending the coming into effect of the organic law, the government of Syria and the Lebanon shall be conducted in accordance with the spirit of this mandate.

The Mandatory shall, as far as circumstances permit, encourage local autonomy.

ARTICLE 2.—The Mandatory may maintain its troops in the said territory for its defense. It shall further be empowered, until the entry into force of the organic law and the reestablishment of public security, to organize such local militia as may be necessary for the defense of the territory, and to employ this militia for defense and also for the maintenance of order. These local forces may only be recruited from the inhabitants of the said territory.

The said militia shall thereafter be under the local authorities, subject to the authority and the control which the Mandatory shall retain over these forces. It shall not be used for purposes other than those above specified save with the consent of the Mandatory.

Nothing shall preclude Syria and the Lebanon from contributing to the cost of the maintenance of the forces of the Mandatory stationed in the territory.

The Mandatory shall at all times possess the right to make use of the ports, railways and means of communication of Syria and the Lebanon for the passage of its troops and of all materials, supplies, and fuel.

ARTICLE 3.—The Mandatory shall be entrusted with the exclusive control of the foreign relations of Syria and the Lebanon and with the right to issue exequaturs to the consuls appointed by foreign Powers. Nationals of Syria and the Lebanon living outside the limits of the territory shall be under the diplomatic and consular protection of the Mandatory.

ARTICLE 4.—The Mandatory shall be responsible for seeing that no part of the territory of Syria and the Lebanon is ceded or leased or in any way placed under the control of a foreign Power.

ARTICLE 5.—The privileges and immunities of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, shall not be applicable in Syria and the Lebanon. Foreign consular tribunals shall, however, continue to perform their duties until the coming into force of the new legal organization provided for in Article 6.

Unless the Powers whose nationals enjoyed the afore-mentioned privileges and immunities on August 1, 1914, shall have previously renounced the right to their re-establishment, or shall have agreed to their non-application during a specific period, these privileges and immunities shall at the expiration of the mandate be immediately re-established in their entirety or with such modifications as may have been agreed upon between the Powers concerned.

ARTICLE 6.—The Mandatory shall establish in Syria and the Lebanon a judicial system which shall assure to natives as well as to foreigners a complete guarantee of their rights.

Respect for the personal status of the various peoples and for their religious interests shall be fully guaranteed. In particular, the control and administration of Wakfs shall be exercised in complete accordance with religious law and the dispositions of the founders.

ARTICLE 7.—Pending the conclusion of special extradition agreements, the extradition treaties at present in force between foreign Powers and the Mandatory shall apply within the territory of Syria and the Lebanon.

ARTICLE 8.—The Mandatory shall ensure to all complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality. No discrimination of any kind shall be made between the inhabitants of Syria and the Lebanon on the ground of differences in race, religion or language.

The Mandatory shall encourage public instruction, which shall be given through the medium of the native languages in use in the territory of Syria and the Lebanon.

The right of each community to maintain its own schools for the instruction and education of its own members in its own language, while conforming to such educational requirements of a general nature as the administration may impose, shall not be denied or impaired.

ARTICLE 9.—The Mandatory shall refrain from all interference in the administration of the Councils of management (Conseils de fabrigue) or in the management of religious communities and sacred shrines belonging to the various religions, the immunity of which has been expressly guaranteed.

ARTICLE 10.—The supervision exercised by the Mandatory over the religious missions in Syria and the Lebanon shall be limited to the maintenance of public order and good government; the activities of these religious missions shall in no way be restricted, nor shall their members be subjected to any restrictive measures on the ground of nationality, provided that their activities are confined to the domain of religion.

The religious missions may also concern themselves with education and relief, subject to the general right of regulation and control by the Mandatory or of the local government, in regard to education, public instruction and charitable relief.

ARTICLE 11.—The Mandatory shall see that there is no discrimination in Syria or the Lebanon against the nationals, including societies and associations, of any state member of the League of Nations as compared with its own nationals, including societies and associations, or with the nationals of any other foreign state in matters concerning taxation or commerce, the exercise of professions or industries, or navigation, or in the treatment of ships or aircraft. Similarly, there shall be no discrimination in Syria or the Lebanon against goods originating in or destined for any of the said states; there shall be freedom of transit, under equitable conditions, across the said territory.

Subject to the above, the Mandatory may impose or cause to be imposed by the local governments such taxes and customs duties as it may consider neces-

sary. The Mandatory, or the local governments acting under its advice, may also conclude on grounds of contiguity any special customs arrangements with an adjoining country.

The Mandatory may take or cause to be taken, subject to the provisions of paragraph 1 of this article, such steps as it may think best to ensure the development of the natural resources of the said territory and to safeguard the interests of the local population.

Concessions for the development of these natural resources shall be granted without distinction of nationality between the nationals of all states members of the League of Nations, but on condition that they do not infringe upon the authority of the local government. Concessions in the nature of a general monopoly shall not be granted. This clause shall in no way limit the right of the Mandatory to create monopolies of a purely fiscal character in the interest of the territory of Syria and the Lebanon, and with a view to assuring to the territory the fiscal resources which would appear best adapted to the local needs, or, in certain cases, with a view to developing the natural resources either directly by the state or through an organization under its control, provided that this does not involve either directly or indirectly the creation of a monopoly of the natural resources in favor of the Mandatory or its nationals, nor involve any preferential treatment which would be incompatible with the economic, commercial and industrial equality guaranteed above.

ARTICLE 12.—The Mandatory shall adhere, on behalf of Syria and the Lebanon, to any general international agreements already existing, or which may be concluded hereafter with the approval of the League of Nations, in respect of the following: the slave trade, the traffic in drugs, the traffic in arms and ammunition, commercial equality, freedom of transit and navigation, aerial navigation, postal, telegraph or wireless communications, and measures for the protection of literature, art or industries.

ARTICLE 13.—The Mandatory shall secure the adhesion of Syria and the Lebanon, so far as social, religious and other conditions permit, to such measures of common utility as may be adopted by the League of Nations for preventing and combating disease, including diseases of animals and plants.

ARTICLE 14.—The Mandatory shall draw up and put into force within twelve months from this date a law of antiquities in conformity with the following provisions. This law shall ensure equality of treatment in the matter of excavations and archæological research to the nationals of all states members of the League of Nations.

(1) "Antiquity" means any construction or any product of human activity earlier than the year 1700 A. D.

(2) The law for the protection of antiquities shall proceed by encouragement rather than by threat.

Any person who, having discovered an antiquity without being furnished with the authorisation referred to in paragraph 5, reports the same to an official of the competent department, shall be rewarded according to the value of the discovery.

(3) No antiquity may be disposed of except to the competent department, unless this department renounces the acquisition of any such antiquity.

No antiquity may leave the country without an export license from the said department.

(4) Any person who maliciously or negligently destroys or damages an antiquity shall be liable to a penalty to be fixed.

(5) No clearing of ground or digging with the object of finding antiquities shall be permitted, under penalty of fine, except to persons authorised by the competent department.

(6) Equitable terms shall be fixed for expropriation, temporary or permanent, of lands which might be of historical or archæological interest.

(7) Authorization to excavate shall only be granted to persons who show sufficient guarantees of archæological experience. The Mandatory shall not, in granting these authorisations act in such a way as to exclude scholars of any nation without good grounds.

(8) The proceeds of excavations may be divided between the excavator and the competent department in a proportion fixed by that department. If division seems impossible for scientific reasons, the excavator shall receive a fair indemnity in lieu of a part of the find.

ARTICLE 15.—Upon the coming into force of the organic law referred to in Article 1, an arrangement shall be made between the Mandatory and the local governments for reimbursement by the latter of all expenses incurred by the Mandatory in organizing the administration, developing local resources, and carrying out permanent public works, of which the country retains the benefit. Such arrangement shall be communicated to the Council of the League of Nations.

ARTICLE 16.—French and Arabic shall be the official languages of Syria and the Lebanon.

ARTICLE 17.—The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council as to the measures taken during the year to carry out the provisions of this mandate. Copies of all laws and regulations promulgated during the year shall be attached to the said report.

ARTICLE 18.—The consent of the Council of the League of Nations is required for any modification of the terms of this mandate.

ARTICLE 19.—On the termination of the mandate, the Council of the League of Nations shall use its influence to safeguard for the future the fulfillment by the government of Syria and the Lebanon of the financial obligations, including pensions and allowances, regularly assumed by the administration of Syria or of the Lebanon during the period of the mandate.

ARTICLE 20.—The Mandatory agrees that if any dispute whatever should arise between the Mandatory and another member of the League of Nations, relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

Whereas the mandate in the above terms came into force on September 29, 1923, and,

Whereas the United States of America by participating in the war against Germany contributed to her defeat and the defeat of her allies and to the renunciation of the rights and titles of her allies in the territory transferred by them, but has not ratified the Covenant of the League of Nations embodied in the Treaty of Versailles, and,

Whereas the Government of the United States and the Government of France desire to reach a definite understanding with respect to the rights of the two Governments and their respective nationals in Syria and the Lebanon;

The President of the United States of America and the President of the French Republic have decided to conclude a convention to this effect and have nominated as their Plenipotentiaries:

The President of the United States of America.

His Excellency Mr. Myron T. Herrick, Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

And the President of the French Republic:

M. Raymond Poincaré, Senator, President of the Council, Minister of Foreign Affairs,

Who, after communicating to each other their respective full powers found in good and due form, have agreed as follows:

ARTICLE 1

Subject to the provisions of the present convention the United States consents to the administration by the French Republic, pursuant to the aforesaid mandate, of Syria and the Lebanon.

ARTICLE 2

The United States and its nationals shall have and enjoy all the rights and benefits secured under the terms of the mandate to members of the League of Nations and their nationals, notwithstanding the fact that the United States is not a member of the League of Nations.

ARTICLE 3

Vested American property rights in the mandated territories shall be respected and in no way impaired.

ARTICLE 4

A duplicate of the annual report to be made by the mandatory under Article 17 of the mandate shall be furnished to the United States.

ARTICLE 5

Subject to the provisions of any local laws for the maintenance of public order and public morals, the nationals of the United States will be permitted freely to establish and maintain educational, philanthropic and religious institutions in the mandated territory, to receive voluntary applicants and to teach in the English language.

ARTICLE 6

Nothing contained in the present convention shall be affected by any modification which may be made in the terms of the mandate as

recited above unless such modification shall have been assented to by the United States.

ARTICLE 7

The present convention shall be ratified in accordance with the respective constitutional methods of the high contracting parties. The ratifications shall be exchanged at Paris as soon as practicable. The present convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the respective plenipotentiaries have signed this convention and have affixed thereto their seals.

Done in duplicate at Paris, the 4th day of April, in the year 1924.

[SEAL] MYRON T. HERRICK.
[SEAL] R. POINCARÉ.

WITH TREATY BETWEEN THE UNITED STATES AND BELGIUM CONCERNING THE MANDATE OVER THE TERRITORY OF RUANDA-URUNDI, WITH PROTOCOL[13]

[Signed at Brussels, April 18, 1923, and January 21, 1924; ratifications exchanged, November 18, 1924]

Whereas by Article 119 of the Treaty of Peace signed at Versailles the 28th of June 1919, Germany renounced in favor of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions; and

Whereas by Article 22 of the same instrument it was provided that certain territories, which as a result of the war had ceased to be under the sovereignty of the states which formerly governed them, should be placed under the mandate of another Power, and that the terms of the mandate should be explicitly defined in each case by the Council of the League of Nations; and

Whereas the benefits accruing to the United States under the aforesaid Article 119 of the Treaty of Versailles were confirmed by the treaty between the United States and Germany, signed on August 25, 1921, to restore friendly relations between the two nations; and

Whereas four of the Principal Allied and Associated Powers, to wit: the British Empire, France, Italy and Japan, agreed that the King of the Belgians should exercise the mandate for part of the former Colony of German East Africa; and

Whereas the terms of the said mandate have been defined by the Council of the League of Nations as follows:

ARTICLE 1

The territory over which a mandate is conferred upon His Majesty the King of the Belgians (hereinafter called the Mandatory) comprises that part of the territory of the former colony of German East Africa situated to the west of the following line:

[13] U. S. Treaty Series, No. 704.

From the point where the frontier between the Uganda Protectorate and German East Africa cuts the River Mavumba, a straight line in a south-easterly direction to point 1640, about 15 kilomètres south-south-west of Mount Gabiro;

Thence a straight line in a southerly direction to the north shore of Lake Mohazi, where it terminates at the confluence of a river situated about 2½ kilometres west of the confluence of the River Msilala;

If the trace of the railway on the west of the River Kagera between Bugufi and Uganda approaches within 16 kilometres of the line defined above, the boundary will be carried to the west, following a minimum distance of 16 kilometres from the trace, without, however, passing to the west of the straight line joining the terminal point on Lake Mohazi and the top of Mount Kivisa (point 2100), situated on the Uganda-German East Africa frontier about 5 kilometres southwest of the point where the River Mavumba cuts this frontier;

Thence a line south-eastwards to meet the southern shore of Lake Mohazi;

Thence the watershed between the Taruka and the Mkarange rivers and continuing southwards to the north-eastern end of Lake Mugesera;

Thence the median line of this lake and continuing southwards across Lake Ssake to meet the Kagera;

Thence the course of the Kagera downstream to meet the western boundary of Bugufi;

Thence this boundary to its junction with the eastern boundary of Urundi;

Thence the eastern and southern boundary of Urundi to Lake Tanganyika.

The frontier described above is shown on the attached British 1 : 1.000.000 map G. S. G. S. 2932. The boundaries of Bugufi and Urundi are drawn as shown in the Deutscher Kolonial-atlas (Dietrich-Reimer) scale 1 : 1.000.000 dated 1906.[2]

ARTICLE 2

A boundary commission shall be appointed by His Majesty the King of the Belgians and His Britannic Majesty to trace on the spot the line described in Article 1 above.

In case any dispute should arise in connection with the work of these commissioners, the question shall be referred to the Council of the League of Nations, whose decision shall be final.

The final report by the boundary commission shall give the precise description of this boundary as actually demarcated on the ground; the necessary maps shall be annexed thereto and signed by the commissioners. The report, with its annexes, shall be made in triplicate; one copy shall be deposited in the archives of the League of Nations, one shall be kept by the Government of His Majesty the King of the Belgians and one by the Government of His Britannic Majesty.

ARTICLE 3

The Mandatory shall be responsible for the peace, order and good government of the territory, and shall undertake to promote to the utmost the material and moral well-being and the social progress of its inhabitants.

ARTICLE 4

The Mandatory shall not establish any military or naval bases, nor erect any fortifications, nor organize any native military force in the territory except for local police purposes and for the defence of the territory.

ARTICLE 5

The Mandatory:

(1) shall provide for the eventual emancipation of all slaves, and for as speedy an elimination of domestic and other slavery as social conditions will allow;

(2) shall suppress all forms of slave trade;

(3) shall prohibit all forms of forced or compulsory labor, except for public works and essential services, and then only in return for adequate remuneration;

(4) shall protect the natives from measures of fraud and force by the careful supervision of labor contracts and the recruiting of labor;

(5) shall exercise a strict control over the traffic in arms and ammunition and the sale of spirituous liquors.

ARTICLE 6

In the framing of laws relating to the holding or transfer of land, the Mandatory shall take into consideration native laws and customs, and shall respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between natives, without the previous consent of the public authorities. No real rights over native land in favor of non-natives may be created except with the same consent.

The Mandatory will promulgate strict regulations against usury.

ARTICLE 7

The Mandatory shall secure to all nationals of states members of the League of Nations the same rights as are enjoyed by his own nationals in respect of entry into and residence in the territory, the protection afforded to their person and property, the acquisition of property, movable and immovable, and the exercise of their profession or trade, subject only to the requirements of public order, and on condition of compliance with the local law.

Further, the Mandatory shall ensure to all nationals of states members of the League of Nations, on the same footing as to his own nationals, freedom of transit and navigation, and complete economic, commercial and industrial equality; provided that the Mandatory shall be free to organize public works and essential services on such terms and conditions as he thinks just.

Concessions for the development of the natural resources of the territory shall be granted by the Mandatory without distinction on grounds of nationality between the nationals of all states members of the League of Nations, but on such conditions as will maintain intact the authority of the local government.

Concessions having the character of a general monopoly shall not be granted. This provision does not affect the right of the Mandatory to create monopolies of a purely fiscal character in the interest of the territory under mandate, and in order to provide the territory with fiscal resources which seem best suited to the local requirements; or, in certain cases, to carry out the development of natural resources, either directly by the State, or by a controlled agency, provided that there shall result therefrom no monopoly of the natural resources for the benefit of the Mandatory or his nationals, directly or indirectly, nor any preferential advantage which shall be inconsistent with the economic, commercial and industrial equality hereinbefore guaranteed.

The rights conferred by this article extend equally to companies and associations organized in accordance with the law of any of the members of the

League of Nations, subject only to the requirements of public order, and on condition of compliance with the local law.

ARTICLE 8

The Mandatory shall ensure in the territory complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality; missionaries who are nationals of states members of the League of Nations shall be free to enter the territory and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools throughout the territory; it being understood, however, that the Mandatory shall have the right to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required for such control.

ARTICLE 9

The Mandatory shall apply to the territory any general international conventions applicable to contiguous territories.

ARTICLE 10

The Mandatory shall have full powers of administration and legislation in the area subject to the mandate: this area shall be administered in accordance with the laws of the Mandatory as an integral part of his territory and subject to the preceding provisions.

The Mandatory shall therefore be at liberty to apply his laws to the territory under the mandate subject to the modifications required by local conditions, and to constitute the territory into a customs, fiscal or administrative union or federation with the adjacent possessions under his own sovereignty or control; provided always that the measures adopted to that end do not infringe the provisions of this mandate.

ARTICLE 11

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council. This report shall contain full information concerning the measures taken to apply the provisions of the present mandate.

ARTICLE 12

The consent of the Council of the League of Nations is required for any modification of the terms of this mandate.

ARTICLE 13

The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanant Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

Whereas the United States of America by participating in the war against Germany contributed to her defeat and to the renunciation of her rights and titles over her oversea possessions, but has not ratified the Treaty of Versailles; and

Whereas the Government of the United States and the Government of the King of the Belgians desire to reach a definite understanding with regard to the rights of the two governments and their respective nationals in the aforesaid former Colony of German East Africa under mandate to the King of the Belgians;

The President of the United States of America and His Majesty the King of the Belgians have decided to conclude a convention to this effect and have nominated as their plenipotentiaries:

His Excellency the President of the United States of America, Mr. Benjamin Thaw, Junior, chargé d'affairs ad interim of the United States of America at Brussels, and

His Majesty the King of the Belgians: Monsieur Henri Jaspar, his Minister for Foreign Affairs,

Who, after having communicated to each other their full powers, found in good and due form, have agreed on the following provisions:

ARTICLE 1

Subject to the provisions of the present convention, the United States consents to the administration by the Government of the King of the Belgians, pursuant to the aforesaid mandate, of the former German territory, described in Article 1 of the mandate.

ARTICLE 2

The United States and its nationals shall have and enjoy all the rights and benefits secured under the terms of Articles 3, 4, 5, 6, 7, 8, 9, and 10 of the mandate to members of the League of Nations and their nationals, notwithstanding the fact that the United States is not a member of the League of Nations.

ARTICLE 3

Vested American property rights in the mandated territory shall be respected and in no way impaired.

ARTICLE 4

A duplicate of the annual report to be made by the mandatory under Article 11 of the mandate shall be furnished to the United States.

ARTICLE 5

Nothing contained in the present convention shall be affected by any modification which may be made in the terms of the mandate as recited above unless such modification shall have been assented to by the United States.

ARTICLE 6

The extradition treaties and conventions in force between the United States and Belgium shall apply to the mandated territory.

ARTICLE 7

The present convention shall be ratified in accordance with the respective constitutional methods of the high contracting parties. The ratifications shall be exchanged in Brussels as soon as practicable. It shall take effect on the date of the exchange of ratifications.

In witness whereof, the respective plenipotentiaries have signed the present treaty and have affixed thereto the seal of their arms.

Done in duplicate at Brussels, this 18th day of April 1923.

[SEAL] BENJAMIN THAW, Jr.
[SEAL] HENRI JASPAR.

PROTOCOL

Whereas, the boundary of the mandate conferred upon His Majesty the King of the Belgians over the territory of Ruanda-Urundi and recited in the preamble of the treaty concerning the mandate concluded between the United States of America and Belgium on April 18, 1923, has been modified by a common accord between the British and Belgian Governments with the approval given by the Council of the League of Nations at its meeting of the 31 of August, 1923, in order better to safeguard the interests of the native populations; and,

Whereas, by Article V of the treaty referred to above nothing contained in the treaty shall be affected by any modification which may be made in the terms of the mandate as recited in the treaty unless such modification shall have been assented to by the United States of America; and,

Whereas, the Government of the United States of America perceives no objection to the modification in question,

The Governments of the United States of America and Belgium have resolved to amend the treaty signed on April 18, 1923, between the two countries and have named for this purpose their respective plenipotentiaries

The President of the United States of America,

Mr. Henry P. Fletcher, Ambassador of the United States of America at Brussels,

His Majesty the King of the Belgians,

Mr. Henri Jaspar, his Minister of Foreign Affairs;

Who, after having communicated each to the other their full powers found in good and due form, have agreed to the following amendatory articles to be taken as part of the treaty signed April 18, 1923:

ARTICLE 1

Article 1 of the mandate recited in the preamble of the treaty signed April 18, 1923, shall be replaced by the following:

"The territory over which a mandate is conferred upon His Majesty the King of the Belgians (hereinafter called the Mandatory) comprises that part of the territory of the former colony of German East Africa situated to the west of the following line:

"The mid-stream of the Kagera River from the Uganda boundary to the point where the Kagera River meets the western boundary of Bugufi, thence this boundary to its junction with the eastern boundary of Urundi, thence the eastern and southern boundary of Urundi to Lake Tanganyka.

"The frontier described above is shown on the attached British map GSGS Number 2932–A, on the scale of 1:1.000.000."[2]

ARTICLE 2

The present protocol shall be ratified in accordance with the constitutional methods of the high contracting parties. The ratifications shall be exchanged in Brussels on the same day as those of the treaty of April 18, 1923. It shall take effect on the date of exchange of ratifications.

In witness whereof the respective plenipotentiaries have signed the present protocol and have affixed thereto the seal of their arms.

Done in duplicate at Brussels, this twenty-first day of January, one thousand nine hundred and twenty-four.

[SEAL] HENRY P. FLETCHER.
[SEAL] HENRI JASPAR.

TREATY BETWEEN THE UNITED STATES AND JAPAN [14] REGARDING RIGHTS OF THE TWO GOVERNMENTS AND THEIR RESPECTIVE NATIONALS IN FORMER GERMAN ISLANDS IN THE PACIFIC OCEAN NORTH OF THE EQUATOR, AND IN PARTICULAR THE ISLAND OF YAP

[Signed at Washington, February 11, 1922; ratification advised by the Senate, March 1, 1922; ratified by the President, June 2, 1922; ratified by Japan, June 23, 1922; ratifications exchanged at Washington, July 13, 1922; proclaimed, July 13, 1922]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas a Convention between the United States of America and Japan with regard to the rights of the two Governments and their

[2] The maps attached to the original treaty and protocol are not here reproduced.
[14] U. S. Series, No. 664.

respective nationals in the former German Islands in the Pacific Ocean, lying north of the Equator, in particular the Island of Yap, was concluded and signed by their respective Plenipotentiaries at Washington, on the eleventh of February, one thousand nine hundred and twenty-two, the original of which Convention is word for word as follows:

The United States of America and Japan;

Considering that by Article 119 of the Treaty of Versailles, signed on June 28, 1919, Germany renounced in favor of the Powers described in that Treaty as the Principal Allied and Associated Powers, to wit, the United States of America, the British Empire, France, Italy and Japan, all her rights and titles over her oversea possessions;

Considering that the benefits accruing to the United States under the aforesaid Article 119 of the Treaty of Versailles were confirmed by the Treaty between the United States and Germany, signed on August 25, 1921, to restore friendly relations between the two nations;

Considering that the said four Powers, to wit, the British Empire, France, Italy and Japan, have agreed to confer upon His Majesty the Emperor of Japan a mandate, pursuant to the Treaty of Versailles, to administer the groups of the former German Islands in the Pacific Ocean lying north of the Equator, in accordance with the following provisions:

ARTICLE 1. The islands over which a mandate is conferred upon His Majesty the Emperor of Japan (hereinafter called the Mandatory) comprise all the former German islands situated in the Pacific Ocean and lying north of the Equator.

ARTICLE 2. The Mandatory shall have full power of administration and legislation over the territory subject to the present Mandate as an integral portion of the Empire of Japan, and may apply the laws of the Empire of Japan to the territory, subject to such local modifications as circumstances may require.

The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present Mandate.

ARTICLE 3. The Mandatory shall see that the slave trade is prohibited and that no forced labour is permitted, except for essential public works and services, and then only for adequate remuneration.

The Mandatory shall also see that the traffic in arms and ammunition is controlled in accordance with principles analogous to those laid down in the Convention relating to the control of the arms traffiffic, signed on September 10th, 1919, or in any convention amending same.

The supply of intoxicating spirits and beverages to the natives shall be prohibited.

ARTICLE 4. The military training of the natives, otherwise than for purposes of internal police and the local defence of the territory, shall be prohibited. Furthermore, no military or naval bases shall be established or fortifications erected in the territory.

ARTICLE 5. Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow all missionaries, nationals of any State Member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling.

ARTICLE 6. The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information with regard to the territory, and indicating the measures taken to carry out the obligations assumed under Articles 2, 3, 4, and 5.

ARTICLE 7. The consent of the Council of the League of Nations is required for any modification of the terms of the present mandate.

The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another member of the League of Nations relating to the interpretation or the application of the provisions of the Mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations;

Considering that the United States did not ratify the Treaty of Versailles and did not participate in the agreement respecting the aforesaid Mandate;

Desiring to reach a definite understanding with regard to the rights of the two Governments and their respective nationals in the aforesaid islands, and in particular the Island of Yap, have resolved to conclude a convention for that purpose and to that end have named as their Plenipotentiaries:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States; and

His Majesty the Emperor of Japan: Baron Kijuro Shidehara, His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed as follows:

ARTICLE I

Subject to the provisions of the present Convention, the United States consents to the administration by Japan, pursuant to the aforesaid Mandate, of all the former German Islands in the Pacific Ocean, lying north of the Equator.

ARTICLE II

The United States and its nationals shall receive all the benefits of the engagements of Japan, defined in Articles 3, 4 and 5 of the aforesaid Mandate, notwithstanding the fact that the United States is not a Member of the League of Nations.

It is further agreed between the High Contracting Parties as follows:

(1) Japan shall insure in the islands complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality; American missionaries of all such religions shall be free to enter the islands and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools throughout the islands; it being understood, however, that Japan shall have the right to exercise such control as may be necessary for the maintenance of public order and good government and to take all measures required for such control.

(2) Vested American property rights in the mandated islands shall be respected and in no way impaired;

(3) Existing treaties between the United States and Japan shall be applicable to the mandated islands;

(4) Japan will address to the United States a duplicate of the annual report on the administration of the Mandate to be made by Japan to the Council of the League of Nations;

(5) Nothing contained in the present Convention shall be affected by any modification which may be made in the terms of the Mandate as recited in the Convention, unless such modification shall have been expressly assented to by the United States.

Article III

The United States and its nationals shall have free access to the Island of Yap on a footing of entire equality with Japan or any other nation and their respective nationals in all that relates to the landing and operation of the existing Yap-Guam cable or of any cable which may hereafter be laid or operated by the United States or by its nationals connecting with the Island of Yap.

The rights and privileges embraced by the preceding paragraph shall also be accorded to the Government of the United States and its nationals with respect to radio-telegraphic communication; provided, however, that so long as the Government of Japan shall maintain on the Island of Yap an adequate radio-telegraphic station, cooperating effectively with the cables and with other radio stations on ships or on shore, without discriminatory exactions or preferences, the exercise of the right to establish radio-telegraphic stations on the Island by the United States or its nationals shall be suspended.

Article IV

In connection with the rights embraced by Article III, specific rights, privileges and exemptions, in so far as they relate to electrical communications, shall be enjoyed in the Island of Yap by the United States and its nationals in terms as follows:

(1) Nationals of the United States shall have the unrestricted right to reside in the Island, and the United States and its nationals shall have the right to acquire and hold on a footing of entire equality with Japan or any other nation or their respective nationals all kinds of property and interests, both personal and real, including lands, buildings, residences, offices, works and appurtenances.

(2) Nationals of the United States shall not be obliged to obtain any permit or license in order to be entitled to land and operate cables on the Island, or to establish radio-telegraphic service, subject to the provisions of Article III, or to enjoy any of the rights and privileges embraced by this Article and by Article III.

(3) No censorship or supervision shall be exercised over cable or radio messages or operations.

(4) Nationals of the United States shall have complete freedom of entry and exit in the Island for their persons and property.

(5) No taxes, port, harbour, or landing charges or exactions of any nature whatsoever, shall be levied either with respect to the operation of cables or radio stations, or with respect to property, persons or vessels.

(6) No discriminatory police regulations shall be enforced.

(7) The Government of Japan will exercise its power of expropriation in the Island to secure to the United States or its nationals needed property and facilities for the purpose of electrical communications if such property or facilities cannot otherwise be obtained.

It is understood that the location and the area of land so to be expropriated shall be arranged between the two Governments according to the requirements of each case. Property of the United States or of its nationals and facilities for the purpose of electrical communication in the Island shall not be subject to expropriation.

Article V

The present Convention shall be ratified by the High Contracting Parties in accordance with their respective constitutions. The ratification of this Convention shall be exchanged in Washington as soon as practicable, and it shall take effect on the date of the exchange of the ratifications.

In witness whereof, the respective Plenipotentiaries have signed this Convention and have hereunto affixed their seals.

Done in duplicate at the City of Washington, this eleventh day of February, one thousand nine hundred and twenty-two.

Charles Evans Hughes [seal.]
K. Shidehara [seal.]

And whereas the said Convention, has been duly ratified on both parts, and the ratifications of the two governments were exchanged

in the City of Washington, on the thirteenth day of July, one thousand nine hundred and twenty-two;

Now, therefore, be it known that I, Warren G. Harding, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this thirteenth day of July, in the year of our Lord one thousand nine hundred and twenty-two, and of the Independence of the United States the one hundred and forty-seventh.

[SEAL.] WARREN G HARDING

By the President:

CHARLES E. HUGHES

Secretary of State.

[EXCHANGES OF NOTES]

[*The Japanese Ambassador to the Secretary of State*]

JAPANESE EMBASSY,
Washington, February 11, 1922.

SIR: In proceeding this day to the signature of the Convention between Japan and the United States with respect to the islands, under Japan's Mandate, situated in the Pacific Ocean and lying north of the Equator, I have the honor to assure you, under authorization of my Government, that the usual comity will be extended to nationals and vessels of the United States in visiting the harbors and waters of those islands.

Accept, Sir, the renewed assurances of my highest consideration

K. SHIDEHARA.

Honorable CHARLES E. HUGHES,
Secretary of State.

[*The Secretary of State to the Japanese Ambassador*]

DEPARTMENT OF STATE,
Washington, February 11, 1922.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's Note under date of February 11, 1922, stating that the Japanese Government are quite willing to extend to American na-

tionals and vessels the usual comity in visiting the harbors and waters of the Japanese mandated islands.

Accept, Excellency, the renewed assurances of my highest consideration.

CHARLES E. HUGHES

His Excellency
BARON KIJURO SHIDEHARA,
Ambassador of Japan.

[*The Secretary of State to the Japanese Ambassador*]

DEPARTMENT OF STATE,
Washington, February 11, 1922.

EXCELLENCY: In proceeding this day to the signature of the Convention between the United States and Japan with respect to former German Possessions under a Mandate to Japan, I have the honor to state that if in the future the Government of the United States should have occasion to make any commercial treaties applicable to Australia and New Zealand, it will seek to obtain an extension of such treaties to the mandated islands south of the Equator, now under the Administration of those Dominions. I should add that the Government of the United States has not yet entered into a convention for the giving of its consent to the Mandate with respect to these islands.

I have the honor further to state that it is the intention of the Government of the United States, in making conventions, relating to former German territories under mandate, to request that the governments holding mandates should address to the United States, as one of the Principal Allied and Associated Powers, duplicates of the annual reports of the administration of their mandates.

Accept, Excellency, the renewed assurances of my highest consideration.

CHARLES E. HUGHES

His Excellency
BARON KIJURO SHIDEHARA,
Ambassador of Japan.

[*The Japanese Ambassador to the Secretary of State*]

JAPANESE EMBASSY,
Washington, February 11, 1922.

SIR: I have the honor to acknowledge the receipt of your note of this date, stating that if in the future the Government of the United

States should have occasion to make any commercial treaties applicable to Australia and New Zealand, it will seek to obtain an extension of such treaties to the islands south of the Equator, under the mandate of Australia and New Zealand, and further that it is the intention of the Government of the United States, in making hereafter conventions relating to former German territories under mandate, to request that the Mandatories should address to the United States, as one of the Principal Allied and Associated Powers, duplicates of the annual reports on the administration of such mandated territories.

In taking note of your communication under acknowledgment, I beg you, Sir, to accept the renewed assurances of my highest consideration.

K. SHIDEHARA.

Honorable CHARLES E. HUGHES,
Secretary of State.

MANDATE FOR NAURU [15]

The Council of the League of Nations:

Whereas, by Article 119 of the treaty of peace with Germany signed at Versailles on June 28, 1919, Germany renounced in favor of the Principal Allied and Associated Powers all her rights over her overseas possessions, including therein Nauru; and

Whereas the Principal Allied and Associated Powers agreed that, in accordance with Article 22, Part I (Covenant of the League of Nations) of the said treaty a mandate should be conferred upon His Britannic Majesty to administer Nauru, and have proposed that the mandate should be formulated in the following terms; and

Whereas His Britannic Majesty has agreed to accept a mandate in respect of Nauru and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions; and

Whereas by the aforementioned Article 22, paragraph 8, it is provided that the degree of authority, control or administration to be exercised by the Mandatory not having been previously agreed upon by the members of the League, shall be explicitly defined by the Council of the League of Nations;

Confirming the said mandate, defines its terms as follows:

ARTICLE 1

The territory over which a mandate is conferred upon His Britannic Majesty (hereinafter called the Mandatory) is the former Ger-

[15] League of Nations Official Journal, Jan.–Feb. 1921, p. 93. The United States has not ratified a treaty in regard to Nauru.

man island of Naura (Pleasant Island, situated in about 167° longitude East and 0° 25′ latitude South).

ARTICLE 2

The Mandatory shall have full power of administration and legislation over the territory subject to the present mandate as an integral portion of his territory.

The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present mandate.

ARTICLE 3

The Mandatory shall see that the slave trade is prohibited, and that no forced labor is permitted, except for essential public works and services, and then only for adequate remuneration.

The Mandatory shall also see that the traffic in arms and ammunition is controlled in accordance with principles analogous to those laid down in the convention relating to the control of the arms traffic, signed on September 10, 1919, or in any convention amending the same.

The supply of intoxicating spirits and beverages to the natives shall be prohibited.

ARTICLE 4

The military training of the natives, otherwise than for purposes of internal police and the local defense of the territory, shall be prohibited. Furthermore, no militia or naval bases shall be established or fortification erected in the territory.

ARTICLE 5.

Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow all missionaries, nationals of any state member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling.

ARTICLE 6

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information with regard to the territory, and indicating the measures taken to carry out the obligations assumed under Articles 2, 3, 4 and 5.

ARTICLE 7

The consent of the Council of the League of Nations is required for any modification of the terms of the present mandate.

The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submited to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

The present declaration shall be deposited in the archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Powers signatories of the treaty of peace with Germany.

Certified true copy.

SECRETARY-GENERAL.

Made at Geneva the 17th day of December, 1920.

DECLARATION BY THE JAPANESE GOVERNMENT RELATING TO "C" MANDATES [16]

[Read by Viscount Ishii at the meeting of the Council, December 17, 1920]

From the fundamental spirit of the League of Nations, and as the question of interpretation of the Covenant, His Imperial Japanese Majesty's Government have a firm conviction in the justice of the claim they have hitherto made for the inclusion of a clause concerning the assurance of equal opportunities for trade and commerce in "C" mandates. But from the spirit of conciliation and cooperation and their reluctance to see the question unsettled any longer, they have decided to agree to the issue of the mandate in its present form. That decision, however, should not be considered as an acquiescence on the part of His Imperial Japanese Majesty's Government in the submission of Japanese subjects to a discriminatory and disadvantageous treatment in the mandated territories; nor have they thereby discarded their claim that the rights and interests enjoyed by Japanese subjects in these territories in the past should be fully respected.

[16] League of Nations Official Journal, Jan.–Feb., 1921, p. 95.

RIGHT TO A FLAG

DECLARATION RECOGNISING THE RIGHT TO A FLAG OF STATES HAVING NO SEA-COAST[17]

[English and French official texts registered on October 8, 1921, with the Secretariat of the League of Nations]

The undersigned, duly authorised for the purpose, declare that the States which they represent recognise the flag flown by the vessels of any State having no sea-coast which are registered at some one specified place situated in its territory; such place shall serve as the port of registry of such vessels.

Barcelona, the twentieth day of April nineteen hundred and twenty-one, done in a single copy, of which the English and French texts shall be authentic.

(Signature of plenipotentiaries)

Kingdom of the Serbs, Croates and Slovenes	Uruguay	France
	Greece	China
	Switzerland	The Netherlands
Czecho-Slovak Republic	Panama	Spain
	Bolivia	Lithuania
Norway	Latvia	Persia
British Empire	Guatemala	Denmark
New Zealand	Poland	Chile
India	Bulgaria	Italy
Esthonia	Austria	Portugal
Albania	Sweden	
Japan	Belgium	

[17] League of Nations Treaty Series, 1921, Vol. VII, p. 74.

HALIBUT FISHERY

CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN [18] FOR THE PRESERVATION OF THE HALIBUT FISHERY OF THE NORTHERN PACIFIC OCEAN, INCLUDING BERING SEA

[Signed at Washington, March 2, 1923; ratification advised by the Senate, May 31, 1924; ratified by the President, June 4, 1924; ratified by Great Britain, July 21, 1924; ratifications exchanged at Washington, October 21, 1924; proclaimed, October 22, 1924]

By the President of the United States of America

A PROCLAMATION

Whereas a Convention between the United States of America and Great Britain for the preservation of the halibut fishery of the Northern Pacific Ocean, including Bering Sea, was concluded and signed by their respective Plenipotentiaries at Washington on the second day of March, one thousand nine hundred and twenty-three, the original of which is word for word as follows:

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India, being equally desirous of securing the preservation of the halibut fishery of the Northern Pacific Ocean have resolved to conclude a Convention for this purpose, and have named as their plenipotentiaries:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States; and

His Britannic Majesty: The Honorable Ernest Lapointe, K. C., B. A., LL. B., Minister of Marine and Fisheries of Canada;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

Article I

The nationals and inhabitants and the fishing vessels and boats, of the United States and of the Dominion of Canada, respectively, are hereby prohibited from fishing for halibut (Hippoglossus) both in the territorial waters and in the high seas off the western coasts of the United States, including Bering Sea, and of the Dominion of Canada, from the 16th day of November next after the date of the

[18] U. S. Treaty Series, No. 701.

exchange of ratifications of this Convention, to the 15th day of the following February, both days inclusive, and within the same period yearly thereafter, provided that upon the recommendation of the International Fisheries Commission hereinafter described, this close season may be modified or suspended at any time after the expiration of three such seasons, by a special agreement concluded and duly ratified by the High Contracting Parties.

It is understood that nothing contained in this Article shall prohibit the nationals or inhabitants and the fishing vessels or boats of the United States and of the Dominion of Canada, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Article. Any halibut that may be taken incidentally when fishing for other fish during the season when fishing for halibut is prohibited under the provisions of this Article may be retained and used for food for the crew of the vessel by which they are taken. Any portion thereof not so used shall be landed and immediately turned over to the duly authorized officers of the Department of Commerce of the United States or of the Department of Marine and Fisheries of the Dominion of Canada. Any fish turned over to such officers in pursuance of the provisions of this Article shall be sold by them to the highest bidder and the proceeds of such sale, exclusive of the necessary expenses in connection therewith, shall be paid by them into the treasuries of their respective countries.

Article II

Every national or inhabitant, vessel or boat of the United States or of the Dominion of Canada engaged in halibut fishing in violation of the preceding Article may be seized except within the jurisdiction of the other party by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be mutually agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of the preceding Article or of the laws or regulations which either High Contracting Party may make to carry those provisions into effect, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

Article III

The High Contracting Parties agree to appoint within two months after the exchange of ratifications of this Convention, a Commission to be known as the International Fisheries Commission, consisting of four members, two to be appointed by each party. This Commission shall continue to exist so long as this Convention shall remain in force. Each party shall pay the salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The Commission shall make a thorough investigation into the life history of the Pacific halibut and such investigation shall be undertaken as soon as practicable. The Commission shall report the results of its investigation to the two Governments and shall make recommendations as to the regulation of the halibut fishery of the North Pacific Ocean, including the Bering Sea, which may seem to be desirable for its preservation and development.

Article IV

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention with appropriate penalties for violations thereof.

Article V

This Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it. It shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in Washington as soon as practicable, and the Convention shall come into force on the day of the exchange of ratifications.

In faith whereof, the respective plenipotentiaries have signed the present Convention in duplicate, and have thereunto affixed their seals.

Done at the City of Washington, the second day of March, in the year of our Lord one thousand nine hundred and twenty-three.

Charles Evans Hughes [seal.]
Ernest Lapointe [seal.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington on the twenty-first day of October, one thousand nine hundred and twenty-four;

Now, therefore, be it known that I, Calvin Coolidge, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this twenty-second day of October, in the year of our Lord one thousand nine hundred and twenty-four, and of the Independence of the United States of America the one hundred and forty-ninth.

[SEAL.] CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES

Secretary of State.

SMUGGLING OF INTOXICATING LIQUORS

CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN [19]—PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS

[Signed at Washington, January 23, 1924; ratification advised by the Senate, March 13, 1924; ratified by the President, March 21, 1924; ratified by Great Britain, April 30, 1924; ratifications exchanged at Washington, May 22, 1924; proclaimed, May 22, 1924]

By the President of the United States of America

A PROCLAMATION

Whereas a Convention between the United States of America and Great Britain to aid in the prevention of the smuggling of intoxicating liquors into the United States was concluded and signed by their respective Plenipotentiaries at Washington, on the twenty-third day of January, one thousand nine hundred and twenty-four, the original of which Convention is word for word as follows:

The President of the United States of America;

And His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India;

Being desirous of avoiding any difficulties which might arise between them in connection with the laws in force in the United States on the subject of alcoholic beverages;

Have decided to conclude a Convention for that purpose;

And have appointed as their Plenipotentiaries:

The President of the United States of America:

Charles Evans Hughes, Secretary of State of the United States;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

The Right Honorable Sir Auckland Campbell Geddes, G. C. M. G., K. C. B., His Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, having communicated their full powers found in good and due form, have agreed as follows:

Article I

The High Contracting Parties declare that it is their firm intention to uphold the principle that 3 marine miles extending from the

[19] U. S. Treaty Series, No. 685.

coastline outwards and measured from low-water mark constitute the proper limits of territorial waters.

Article II

(1) His Britannic Majesty agrees that he will raise no objection to the boarding of private vessels under the British flag outside the limits of territorial waters by the authorities of the United States, its territories or possessions in order that enquiries may be addressed to those on board and an examination be made of the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions in violation of the laws there in force. When such enquiries and examination show a reasonable ground for suspicion, a search of the vessel may be instituted.

(2) If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States, its territories or possessions prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions for adjudication in accordance with such laws.

(3) The rights conferred by this article shall not be exercised at a greater distance from the coast of the United States its territories or possessions than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense. In cases, however, in which the liquor is intended to be conveyed to the United States its territories or possessions by a vessel other than the one boarded and searched, it shall be the speed of such other vessel and not the speed of the vessel boarded, which shall determine the distance from the coast at which the right under this article can be exercised.

Article III

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors, when such liquors are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions on board British vessels voyaging to or from ports of the United States, or its territories or possessions or passing through the territorial waters thereof, and such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of

such liquors shall at any time or place be unladen within the United States, its territories or possessions.

Article IV

Any claim by a British vessel for compensation on the grounds that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this Treaty or on the ground that it has not been given the benefit of Article III shall be referred for the joint consideration of two persons, one of whom shall be nominated by each of the High Contracting Parties.

Effect shall be given to the recommendations contained in any such joint report. If no joint report can be agreed upon, the claim shall be referred to the Claims Commission established under the provisions of the Agreement for the Settlement of Outstanding Pecuniary Claims signed at Washington the 18th August, 1910, but the claim shall not, before submisison to the tribunal, require to be included in a schedule of claims confirmed in the manner therein provided.

Article V

This Treaty shall be subject to ratification and shall remain in force for a period of one year from the date of the exchange of ratifications.

Three months before the expiration of the said period of one year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Treaty.

If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the Treaty shall lapse.

If no notice is given on either side of the desire to propose modifications, the Treaty shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above three months before its expiration modifications in the Treaty, and to the provision that if such modifications are not agreed upon before the close of the period of one year, the Treaty shall lapse.

Article VI

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present Treaty the said Treaty shall automatically lapse, and, on such lapse or whenever this Treaty shall cease to be in force, each High Contracting Party shall enjoy all the rights which it would have possessed had this Treaty not been concluded.

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate and have thereunto affixed their seals.

Done at the city of Washington this twenty-third day of January, in the year of our Lord one thousand nine hundred and twenty-four.

[SEAL.] CHARLES EVANS HUGHES
[SEAL.] A. C. GEDDES

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Washington on the twenty-second day of May, one thousand nine hundred and twenty-four;

Now, therefore, be it known that I, Calvin Coolidge, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this twenty-second day of May in the year of our Lord one thousand nine hundred and twenty-four, and of the Independence of the United States of America the one hundred and forty-eighth.

[SEAL.] CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES
Secretary of State.

CONVENTION BETWEEN THE UNITED STATES AND PANAMA [20]— PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS

[Signed at Washington, June 6, 1924; ratification advised by the Senate, December 10, 1924; ratified by the President, January 15, 1925; ratified by Panama, December 30, 1924; ratifications exchanged at Washington, January 19, 1925; proclaimed, January 19, 1925]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas a convention between the United States of America and Panama to aid in preventing the smuggling of intoxicating liquors into the United States was concluded and signed by their respective

[20] U. S. Treaty Series, No. 707.

Plenipotentiaries at Washington on the sixth day of June, one thousand nine hundred and twenty-four, the original of which convention, being in the English and Spanish languages, is word for word as follows:

The President of the United States of America and the President of the Republic of Panama being desirous of avoiding any difficulties which might arise between them in connection with the laws in force in the United States on the subject of alcoholic beverages have decided to conclude a Convention for that purpose and have appointed as their Plenipotentiaries:

The President of the United States of America, Charles Evans Hughes, Secretary of State of the United States of America, and

The President of Panama, Ricardo J. Alfaro, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama in Washington,

Who, having communicated their full powers found in good and due form, have agreed as follows:

Article I

The High Contracting Parties declare that it is their firm intention to uphold the principle that three marine miles extending from the coast line outwards and measured from low-water mark constitute the proper limits of territorial waters.

Article II

(1) The President of Panama agrees that Panama will raise no objection to the boarding of private vessels under the Panaman flag outside the limits of territorial waters by the authorities of the United States, its territories or possessions, in order that enquiries may be addressed to those on board and an examination be made of the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions in violation of the laws there in force. When such enquiries and examinations show a reasonable ground for suspicion, a search of the vessel may be initiated.

(2) If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States, its territories or possessions prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions for adjudication in accordance with such laws.

(3) The rights conferred by this article shall not be exercised at a greater distance from the coast of the United States its territories

or possessions than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense, and shall not be exercised in waters adjacent to territorial waters of the Canal Zone. In cases, however, in which the liquor is intended to be conveyed to the United States its territories or possessions by a vessel other than the one boarded and searched, it shall be the speed of such other vessel and not the speed of the vessel boarded, which shall determine the distance from the coast at which the right under this article can be exercised.

ARTICLE III

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors, when such liquors are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions on board Panaman vessels voyaging to or from ports of the United States, or its territories or possessions or passing through the territorial waters thereof, and such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall at any time or place be unladen within the United States, or its territories or possessions.

ARTICLE IV

Any claim by a Panaman vessel for compensation on the grounds that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this Treaty or on the ground that it has not been given the benefit of Article III shall be referred for the joint consideration of two persons, one of whom shall be nominated by each of the High Contracting Parties.

Effect shall be given to the recommendations contained in any such joint report. If no joint report can be agreed upon, the claim shall be referred to the Permanent Court of Arbitration at The Hague described in the Convention for the Pacific Settlement of International Disputes, concluded at The Hague, October 18, 1907. The Arbitral Tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention. The proceedings shall be regulated by so much of Chapter IV of the said Convention and of Chapter III thereof (special regard being had for Articles 70 and 74, but excepting Articles 53 and 54) as the Tribunal may consider to be applicable and to be consistent with the provisions of this agreement. All sums of money which may be awarded by the Tribunal on account of any claim

shall be paid within eighteen months after the date of the final award without interest and without deduction, save as hereafter specified. Each Government shall bear its own expenses. The expenses of the Tribunal shall be defrayed by a ratable deduction of the amount of the sums awarded by it, at a rate of five per cent. on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

Article V

This Treaty shall be subject to ratification and shall remain in force for a period of one year from the date of the exchange of ratifications.

Three months before the expiration of the said period of one year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Treaty.

If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the Treaty shall lapse.

If no notice is given on either side of the desire to propose modifications, the Treaty shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above three months before its expiration modifications in the Treaty, and to the provision that if such modifications are not agreed upon before the close of the period of one year, the Treaty shall lapse.

Article VI

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present Treaty the said Treaty shall automatically lapse, and, on such lapse or whenever this Treaty shall cease to be in force, each High Contracting Party shall enjoy all the rights which it would have possessed had this Treaty not been concluded.

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof and by the President of Panama in accordance with the requirements of the Panaman Constitution; and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate and have thereunto affixed their seals.

Done at the city of Washington, this sixth day of June in the year of our Lord one thousand nine hundred and twenty-four.

[SEAL.] CHARLES EVANS HUGHES
[SEAL.] R. J. ALFARO

And whereas the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington on the nineteenth day of January, one thousand nine hundred and twenty-five;

Now, therefore, be it known that I, Calvin Coolidge, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this nineteenth day of January, in the year of our Lord one thousand nine hundred and twenty-five, and of the Independence of the United States of America the one hundred and forty-ninth.

[SEAL.] CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES
Secretary of State.

RADIO AND AERIAL [21]

COMMISSION OF JURISTS TO CONSIDER AND REPORT UPON THE REVISION OF THE RULES OF WARFARE—GENERAL REPORT

The Conference on the Limitation of Armament at Washington adopted at its sixth Plenary Session on the 4th February, 1922, a resolution for the appointment of a Commission representing the United States of America, the British Empire, France, Italy and Japan to consider the following questions:—

(*a*) Do existing rules of international law adequately cover new methods of attack or defence resulting from the introduction or development, since The Hague Conference of 1907, of new agencies of warfare?

(*b*) If not so, what changes in the existing rules ought to be adopted in consequence thereof as a part of the law of nations?

The Commission was to report its conclusions to each of the Powers represented in its membership.

The Resolution also provided that those Powers should thereupon confer as to the acceptance of the report and the course to be followed to secure the consideration of its recommendations by the other civilised Powers.

By a second resolution adopted at the same session it was agreed to exclude from the jurisdiction of the Commission the rules or declarations relating to submarines and to the use of noxious gases and chemicals already adopted by the Powers in the said Conference.

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[21] The St. Petersburg International Telegraph Convention of 1875, to which the United States never became a party, forms the basis of much subsequent negotiation on telegraph communication. A preliminary conference on wireless telegraph was held in 1903, and an international convention was drawn up in 1906. The Radiotelegraph Convention of 1912, ratified by the United States, elaborated earlier conventions. While this convention was negotiated between "The United States of America and the Possessions of the United States of America," the ratification by the United States included the possessions, "Alaska, Hawaii, and other Possessions in Polynesia, the Philippine Islands, Porto Rico, and the American Possessions in the Antilles, the Panama Canal Zone."

The World War emphasized the need for further regulations, as by Article 21 of the Convention of 1912 naval and military installations were not covered. Many national regulations were published during the hostilities, and various degrees of control over radio were exercised by neutrals and belligerents.

The Conference on the Limitation of Armament by resolution voted in 1922 for the appointment of a commission of jurists who should consider new agencies of warfare, and radio was named as one of these. In earlier conferences, the terms "wireless telegraphy," "radio telegraphy," and others had been used, but the term "radio" was adopted by the commission as the comprehensive term for radio telegraphy, telephony, and goniometry.

With the unanimous concurrence of the Powers mentioned in the first of the above resolutions an invitation to participate in the work of the Commission was extended to and accepted by the Netherlands Government. It was also agreed that the programme of the Commission should be limited to the preparation of rules relating to aerial warfare, and to rules relating to the use of radio in time of war.

The United States Government proposed that the Commission should meet on the 11th December, 1922, at The Hague, and the representatives of the six Powers mentioned above assembled on that date in the Palace of Peace. At the second meeting of the Commission the Honourable John Bassett Moore, First Delegate of the United States, was elected President of the Commission.

The Commission has prepared a set of rules for the control of radio in time of war, which are contained in Part I of this Report, and a set of rules for aerial warfare, which are contained in Part II of this Report.

The Commission desires to add that it believes that if these sets of rules are approved and brought into force, it will be found expedient to make provision for their re-examination after a relatively brief term of years to see whether any revision is necessary.

PART I. RULES FOR THE CONTROL OF RADIO IN TIME OF WAR

The regulation of the use of radio in time of war is not a new question. Several international conventions already contain provisions on the subject, but the ever increasing development of this means of communication has rendered it necessary that the whole matter should be reconsidered, with the object of completing and co-ordinating existing texts. This is the more important in view of the fact that several of the existing international conventions have not been ratified by all the Powers.

The articles of the existing conventions which deal directly or indirectly with radio-telegraphy in time of war are as follows:

The Land War Neutrality Convention (No. V of 1907) prohibits in article 3 the erecting of radio stations by belligerents on neutral territory and also the use by belligerents of any radio station established on neutral territory before the war for purely military purposes and not previously opened for the service of public messages. Article 5 obliges the neutral Power not to allow any such proceeding by a belligerent.

Under article 8 a neutral Power is not bound to forbid or restrict the employment on behalf of belligerents of radio stations belonging to it or to companies or private individuals.

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Under article 9 the neutral Power must apply to the belligerents impartially the measures taken by it under article 8 and must enforce them on private owners of radio stations.

Article 8 of the Convention for the Adaptation of the Geneva Convention to Maritime Warfare (No. X of 1907) provides that the presence of a radio installation on board a hospital ship does not of itself justify the withdrawal of the protection to which a hospital ship is entitled so long as she does not commit acts harmful to the enemy.

Under the Convention concerning Neutral Rights and Duties in Maritime Warfare (No. XIII of 1907) belligerents are forbidden, as part of the general prohibition of the use of neutral ports and waters as a base of naval operations, to erect radio stations therein, and under article 25 a neutral Power is bound to exercise such supervision as the means at its disposal permit to prevent any violation of this provision.

The unratified Declaration of London of 1909, which was signed by the Powers represented in the Naval Conference as embodying rules which corresponded in substance with the generally recognised principles of international law, specified in articles 45 and 46 certain acts in which the use of radio-telegraphy might play an important part as acts of unneutral service. Under article 45 a neutral vessel was to be liable to condemnation if she was on a voyage specially undertaken with a view to the transmission of intelligence in the interest of the enemy. Under article 46 a neutral vessel was to be condemned and receive the same treatment as would be applicable to an enemy merchant vessel if she took a direct part in hostilities or was at the time exclusively devoted to the transmission of intelligence in the interest of the enemy. It should be borne in mind that by article 16 of the Rules for Aerial Warfare an aircraft is deemed to be engaged in hostilities if in the interests of the enemy she transmits intelligence in the course of her flight.

The following provisions have a bearing on the question of the control of radio in time of war, though the conventions relate principally to radio in time of peace. These provisions are articles 8, 9 and 17 of the International Radio-Telegraphic Convention of London of 1912. Of these provisions article 8 stipulates that the working of radio-telegraph stations shall be organised as far as possible in such a manner as not to disturb the service of other radio stations. Article 9 deals with the priority and prompt treatment of calls of distress. Article 17 renders applicable to radio-telegraphy certain provisions of the International Telegraphic Convention of St. Petersburg of 1875. Among the provisions of the Convention of 1875 made

applicable to radio-telegraphy is article 7, under which the High Contracting Parties reserve to themselves the right to stop the transmission of any private telegram which appears to be dangerous to the security of the State or contrary to the laws of the country, to public order or to decency. Under article 8, each Government reserves to itself the power to interrupt, either totally or partially, the system of the international telegraphs for an indefinite period if it thinks necessary, provided that it immediately advises each of the other contracting Governments.

Regard has also been given to the terms of the Convention for the safety of life at sea, London, 1914.

With regard to the radio-telegraphy conventions applicable in time of peace, it should be remembered that these have not been revised since 1912, and that it is not unlikely that a conference may before long be summoned for the purpose of effecting such revision.

The work of the Commission in framing the following rules for the control of radio in time of war has been facilitated by the preparation and submission to the Commission on behalf of the American Delegation of a draft code of rules. This draft has been used as the basis of its work by the Commission.

The first article which has been adopted cannot be appreciated without reference to Article 8 of the Radio-Telegraphic Convention of 1912. This latter article enunciates the broad principle that the operation of radio stations must be organised as far as possible in such a manner as not to disturb the service of other stations of the kind. The object of article 1 is to demonstrate that this principle is equally to prevail in time of war. Needless to say, it is not to apply as between radio stations of opposing belligerents. In the same way as in time of peace the general principle cannot be applied absolutely, so also in time of war it can only be observed "as far as possible."

ARTICLE 1

In time of war the working of radio stations shall continue to be organised, as far as possible, in such manner as not to disturb the services of other radio stations. This provision does not apply as between the radio stations of opposing belligerents.

Article 17 of the Radio-Telegraphic Convention of 1912 enables States to regulate or prohibit the use of radio stations within their jurisdiction by rendering applicable to radio-telegraphy certain provisions of the International Telegraphic Convention of 1875. In particular it is articles 7 and 8 of that Convention which enable such measures of control or prohibition to be taken. The object of article 2 is to make it clear that such rights subsist equally in time of war.

ARTICLE 2

Belligerent and neutral Powers may regulate or prohibit the operation of radio stations within their jurisdiction.

The next article is really only an adaptation of articles 3 and 5 of the Land Warfare Neutrality Convention (No. V of 1907). Article 3 (*b*) of that Convention only prohibits the use of any radio-telegraphic installations established by belligerents before the war on the territory of a neutral Power for purely military purposes. The object of article 3 as now adopted is to prohibit any erection or operation by a belligerent Power or its agents of radio stations within neutral territory.

The wording shows that the responsibility of the neutral State is affected as well as that of the belligerent State in the case in question. The words "personnes à son service" in the French text are employed in the same sense as the word "agents" in the English text.

It should be understood that neutral Governments are bound to use the means at their disposal to prevent the acts which the article is designed to stop. This implies that they will be responsible in any serious case of negligence.

ARTICLE 3

The erection or operation by a belligerent Power or its agents of radio stations within neutral jurisdiction constitutes a violation of neutrality on the part of such belligerent as well as on the part of the neutral Power which permits the erection or operation of such stations.

Article 4 covers the same ground, so far as concerns radio, as that provided for in articles 8 and 9 of Convention V of 1907 mentioned above; but while article 8 stipulates that a neutral Power is not bound to forbid or restrict the use of wireless installations by a belligerent, and article 9 relates to the restrictive or preventive measures taken by a neutral Power for this purpose, measures which must be applied impartially to the belligerents, article 4 imposes on neutral Powers the duty of preventing the transmission by radio of any information destined for a belligerent concerning military forces or military operations.

This article is a compromise. On one side one Delegation pointed out that the 1907 system had stood the test during the war when neutral Governments had taken under article 9 of the 1907 Convention restrictive or preventive measures which were quite satisfactory. On the other side it was pointed out that those measures had been taken precisely for the purpose of complying with the obligation imposed by neutrality, and that it would be well to define this obligation so as to help and protect neutral Powers in preventing the

violation of their neutrality and thereby reducing the probability of their becoming involved in the war. Agreement was reached on the basis of a text indicating exactly the character of the messages prohibited, viz., messages concerning military forces and military operations. It is understood that the prohibition would not cover the repetition of news which has already become public.

It has been agreed that the article does not render necessary the institution of a censorship in every neutral country in every war. The character of the war and the situation of the neutral country may render such measures unnecessary. It goes without saying that neutral Governments are bound to use the means at their disposal to prevent the transmission of the information in question.

The second paragraph merely reproduces the first paragraph of article 9 of the Convention of 1907. The phrase "destined for a belligerent" covers all cases where the information is intended to reach the belligerent, and not merely messages which are addressed to the belligerent.

ARTICLE 4

A neutral Power is not called upon to restrict or prohibit the use of radio stations which are located within its jurisdiction, except so far as may be necessary to prevent the transmission of information destined for a belligerent concerning military forces or military operations and except as prescribed by article 5.

All restrictive or prohibitive measures taken by a neutral Power shall be applied impartially by it to the belligerents.

The legislation of a large number of Powers, for instance, that of the Powers represented in the Commission, already provides for the prohibition of the use of radio installations on board vessels within their jurisdiction. In harmony with articles 5 and 25 of the Convention concerning the Rights and Duties of Neutral Powers in Maritime Warfare (No. XIII of 1907), article 5 enacts the continuance of this régime in time of war and makes it obligatory for all mobile radio stations.

ARTICLE 5

Belligerent mobile radio stations are bound within the jurisdiction of a neutral State to abstain from all use of their radio apparatus. Neutral Governments are bound to employ the means at their disposal to prevent such use.

The transmission of military intelligence for the benefit of a belligerent constitutes an active participation in hostilities and therefore merchant vessels or private aircraft have no right to commit such an act. If they do so they must be content to lose the immunity which their non-combatant status should confer.

The vessel or aircraft concerned renders itself liable to be fired upon at the moment when the act is committed and is also liable to

capture. In case of capture the vessel or aircraft will, if the facts be established, be dealt with in the prize court on the same footing as an enemy merchant vessel or enemy private aircraft. Members of the crew and passengers, if implicated, are to be regarded as committing an act in violation of the laws of war. A neutral vessel or aircraft which has been fired upon without adequate justification will be entitled to address a demand for compensation to the competent authorities. Jurisdiction over such claims might with advantage be conferred upon the prize court.

The second paragraph of the article places neutral merchant vessels or neutral aircraft when on or over the high seas in a position which corresponds to that laid down by article 4 for radio stations in neutral territory. Such radio stations on land must not transmit information destined for a belligerent concerning military forces or military operations and the neutral Power must see to it that this rule is observed. Mobile radio stations when on or over the high seas are not subject to the control of the neutral Government to the same extent as radio stations on land, and consequently the rule laid down in this article does not impose any obligations on the neutral Government. The neutral mobile radio stations themselves will, however, be subject to the same measure of prohibition as the radio stations in neutral territory. They must not transmit information of the nature specified which is destined for the belligerent.

The distinction between the acts dealt with in the first and second paragraphs is that in the first and graver case it is assumed that the merchant vessel or aircraft will have been acting in connivance with the enemy. In flagrant cases, as for instance, where the vessel or aircraft is found transmitting intelligence as to the movement or strength of military forces to an enemy in order to enable the latter to shape his movements accordingly, such connivance would be presumed.

The phrase "destined for a belligerent" has the same meaning as in article 4. As in the case of article 4, it is understood that the prohibition would not cover the repetition of news which has already become public.

The collection by the belligerent of the necessary proofs to establish his case against an aircraft or a vessel may take time. The examination of the message logs of many other vessels or aircraft may be necessary before responsibility can be fixed upon the particular vessel or aircraft which transmitted the incriminating message. It is therefore not possible to limit the right of capture to the duration of the voyage or flight during which the message was sent. How long the liability to capture should subsist was a more

difficult point to determine. Agreement was ultimately reached on a basis of one year.

It is realised that the risk of capture during this period will be a great prejudice to neutrals, but on the other hand the injury done to the belligerent by the transmission by radio of improper messages may under modern conditions of warfare be irreparable, and therefore the sanctions attached to the rule must be serious. The neutral will, however, not be gravely inconvenienced by the measures necessary to protect himself against any violation of the rule.

In the case of all aircraft and of merchant vessels which are not carrying passengers, no great injury will result from the prohibition of radio messages other than those which are authorized by article 9, and in the case of merchant vessels carrying passengers, there can be no insuperable difficulty in the institution on board the merchant vessel, if it is thought necessary, of the same measures as the neutral State may institute on land to protect itself under article 3.

Paragraph 3 is limited to neutral vessels and aircraft because enemy vessels and aircraft are liable to capture at any time by reason of their enemy status.

It goes without saying that as capture is a belligerent right it cannot be exercised except in time of war, and therefore if the war terminates before the expiration of the time limit, the liability to capture is at an end.

The Netherlands Delegation has made a reserve on the subject of this article. It feels that the difficulties of obtaining satisfactory proofs against a neutral vessel or aircraft in the prize court will be so great in these cases that provision should be made for the international review of prize court decisions under this article. In its opinion the Permanent Court of International Justice would be the most appropriate tribunal for this purpose.

Article 6

1. The transmission by radio by a vessel or an aircraft, whether enemy or neutral, when on or over the high seas of military intelligence for the immediate use of a belligerent is to be deemed a hostile act and will render the vessel or aircraft liable to be fired upon.

2. A neutral vessel or neutral aircraft which transmits when on or over the high seas information destined for a belligerent concerning military operations or military forces shall be liable to capture. The Prize Court may condemn the vessel or aircraft if it considers that the circumstances justify condemnation.

3. Liability to capture of a neutral vessel or aircraft on account of the acts referred to in paragraphs (1) and (2) is not extinguished by the conclusion of the voyage or flight on which the vessel or aircraft was engaged at the time, but shall subsist for a period of one year after the act complained of.

Apart from the question of the acquisition by the enemy of information, the use of radio installations by merchant vessels or aircraft may very well be a source of great embarrassment to the commander of a belligerent force. Not merely may it be essential to him to keep secret the strength of his forces or the operations in which they are engaged, but it may be necessary to ensure that there should be no interference with his comunications. Further provisions are, therefore, required to complete the protection afforded to belligerents by article 6.

For this purpose power is given to a belligerent commander to warn off neutral vessels and neutral aircraft and to oblige them to alter their course so that they will not approach the scene of the operations of the armed forces.

A second right given to a belligerent commander is to impose on neutral vessels and aircraft a period of silence in the use of their transmitting apparatus when in the immediate vicinity of the forces under his command. No matter what technical measures may be taken by neutral mobile stations in accordance with the provisions of article 1, their messages, if made at a short distance from the receiving apparatus of belligerent forces, might interfere with the working of such apparatus, and such interference might prevent the hearing of messages to or from the commanding officer or the other units under his command.

To avoid undue hardship to neutrals, the faculty conferred upon the belligerent commander is limited to the duration of the operations in which he is engaged at the time. The article presupposes the actual presence of naval or aerial forces engaged in operations, and that the measures will not be applicable to widely extended zones or to zones in which no military action is taking place.

It is also understood that the change of course provided for in the first paragraph of the article must not prevent a ship or an aircraft from continuing its voyage and from reaching its port of destination.

The article is confined in terms to neutral vessels and aircraft because the belligerent commanding officer requires no special provision to protect himself against the operations of enemy vessels and enemy aircraft.

It will be noted that the terms in which the article is drafted as well as those employed in articles 6 and 8 would cover neutral public vessels or aircaft. This does not imply any intention to encroach upon the rights of neutral States. It is assumed that no such neutral public vessels or aircraft would attempt to interfere in any such manner with the naval or aerial operations conducted by the forces of a State engaged in war.

ARTICLE 7

In case a belligerent commanding officer considers that the success of the operation in which he is engaged may be prejudiced by the presence of vessels or aircraft equipped with radio installations in the immediate vicinity of his armed forces or by the use of such installations therein, he may order neutral vessels or neutral aircraft on or over the high seas:

1. To alter their course to such an extent as will be necessary to prevent their approaching the armed forces operating under his command; or

2. Not to make use of their radio transmitting apparatus while in the immediate vicinity of such forces.

A neutral vessel or neutral aircraft, which does not conform to such direction of which it has had notice, exposes itself to the risk of being fired upon. It will also be liable to capture, and may be condemned if the Prize Court considers that the circumstances justify condemnation.

Article 8 was intended to avoid, as far as possible, the eventuality of one of the belligerents being able to find on board a neutral mobile radio station any texts of radio messages transmitted from the radio stations of the belligerents and not destined for such neutral mobile station.

Such radio messages might possess military importance, and the neutral would thus involuntarily assist one of the belligerents by furnishing him with the means of becoming acquainted with such radio messages.

The seizure of the texts, entailing as it will the removal from the official log of the pages on which the operator enters the messages transmitted and received, together with an indication of the hour of such transmission and reception, has appeared to the Commission to be a sufficient penalty in veiw of the fact that such a proceeding would attract the attention of the administration to which the mobile station belongs, and would show that the responsible persons in the service of that station had not obeyed the provisions of the present article.

Provision is only made for the mere removal by the belligerent of the relevant pages.

The origin of the radio messages received is shown by the indications at the beginning of the message or in the call-sign. Military stations use the indications entered in the register of the International Bureau at Berne, or else secret indications which do not appear in that official register. No written record should therefore be preserved of radio-telegrams which are preceded either by the indications of a belligerent military station or by an unknown indication.

It is to be noted that the text of this article does not exclude the application of sanctions directed against unneutral service, if it is proved that the breach of the provisions in question was committed with an intention of rendering unneutral service.

ARTICLE 8

Neutral mobile radio stations shall refrain from keeping any record of radio messages received from belligerent military radio stations, unless such messages are addressed to themselves.

Violation of this rule will justify the removal by the belligerent of the records of such intercepted messages.

In the first paragraph of article 9 the Commission was anxious to indicate that belligerents who heard signals or messages of distress must, when deciding whether or no they would respond to such signals, take into account both their duties to humanity and their military duties.

The second paragraph is inspired solely by sentiments of humanity with a view to saving human life at sea. The text specifies clearly that every mobile station finding itself in danger or perceiving an immediate danger for other mobile stations will have the right, however it may be affected by other provisions of these rules, to transmit messages in order to ask for help or to signal the danger for navigation which it has perceived. By the words "messages which are indispensable to the safety of navigation," should be understood only such messages as are immediately necessary for preventing the collision, stranding or loss of ships or aircraft.

ARTICLE 9

Belligerents are under obligation to comply with the provisions of interna tional conventions in regard to distress signals and distress messages so far as their military operations permit.

Nothing in these rules shall be understood to relieve a belligerent from such obligation or to prohibit the transmission of distress signals, distress messages and messages which are indispensable to the safety of navigation.

Article 10 is inserted to prevent the employment of signals and messages of distress as ruses of war. It is justified by considerations of honour and humanity. Persons who violate the rule may be punished.

ARTICLE 10

The perversion of radio distress signals and distress messages prescribed by international conventions to other than their normal and legitimate purposes constitutes a violation of the laws of war and renders the perpetrator personally responsible under international law.

The purpose of article 11 is to show clearly that the question whether an act which involves a breach of these rules constitutes also an act of espionage cannot be answered except by reference to the rules of international law which determine what acts amount to espionage.

ARTICLE 11

Acts not otherwise constituting espionage are not espionage by reason of their involving violation of these rules.

The purpose of article 12 is to define clearly the position of the radio operator so far as regards personal liability to punishment. The operator works in his cabin where he executes the orders of those above him. Consequently it is right that he should incur no personal responsibility merely because he has executed orders which he has received in the discharge of his duties as radio operator. Liability to punishment for acts which contravene rules such as articles 9 or 10 falls on those who have given the orders for such acts.

ARTICLE 12

Radio operators incur no personal responsibility from the mere fact of carrying out the orders which they receive in the performance of their duties as operators.

It has not been thought necessary to insert in the rules an article defining the word "radio-station" or "station radio-télégraphique." The phrase is used in both texts as covering radio-telegraphic stations, radio-telephonic stations, radio-goniometric stations and generally all stations which use Hertzian waves transmitted through air, water or earth.

The Japanese Delegation submitted to the Commission the following proposal:

The belligerent may take such measures as to render inoperative the coastal radio stations in enemy jurisdiction, irrespective of their owners.

After examining and discussing this proposal, the Commission came to the conclusion that it was not necessary to insert a special article referring to the subject. It was of opinion that the texts of other international conventions or the usages of war covered the question in all its practical aspects and gave the right to take the measures contemplated in the Japanese proposal.

The Land Warfare Regulations and the Naval Bombardment Convention, 1907 (No. IX of 1907), permit the bombardment of coastal radio stations by land or naval forces. Article 24 of the rules for aerial warfare enables similar measures to be taken by the air forces against radio stations used for military purposes. Furthermore article 53 of the Land Warfare Regulations authorises the seizure by a belligerent in occupation of enemy territory of coastal radio stations, even if such stations belong to private individuals.

An interesting proposal was submitted by the Italian Delegation for protecting the radio-telegraphic communications of combatant forces by the establishment around them of a kind of "zone of

silence." The Commission agreed that this idea was already implied in the text of article 7, and that it was consequently not necessary to express it in a special article.

PART II. RULES OF AERIAL WARFARE

In the preparation of the code of rules of aerial warfare the Commission worked on the basis of a draft submitted by the American Delegation. A similar draft, covering in general the same ground, was submitted by the British Delegation. In the discussion of the various articles adopted by the Commission the provisions contained in each of these drafts were taken into consideration, as well as amendments and proposals submitted by other Delegations.

Chapter I. Applicability: Classification and Remarks

No attempt has been made to formulate a definition of the term "aircraft," nor to enumerate the various categories of machines which are covered by the term. A statement of the broad principle that the rules adopted apply to all types of aircraft has been thought sufficient, and article 1 has been framed for this purpose.

Article 1

The rules of aerial warfare apply to all aircraft, whether lighter or heavier than air, irrespective of whether they are, or are not, capable of floating on the water.

For States which are parties to the Air Navigation Convention of 1919, aircraft are divided by article 30 into two classes, State aircraft and private aircraft, State aircraft being sub-divided into military aircraft and aircraft exclusively employed in State service, such as posts, customs or police. The article also provides, however, that State aircraft, other than military, customs and police aircraft, are to be treated as private aircraft, and subject as such to all the provisions of that Convention. For practical purposes, therefore, States which are parties to the Convention of 1919 divide aircraft in time of peace into three categories:

(*a*) Military aircraft.
(*b*) State aircraft employed for customs and police purposes.
(*c*) Private aircraft and such State aircraft as are employed for purposes other than those enumerated in (*b*).

The Convention of 1919 has not yet become by any means universal, but it would be so inconvenient for States, which are parties to it, to come under different rules in time of war, that account has been taken of the provisions of the Convention when framing the articles adopted by the Commission.

It has also been necessary to take into account the fact that Italy has entrusted the supervision of the customs service to the military forces, a fact which has prevented the adoption of exactly the same language as that employed in article 30 of the Convention of 1919. When read in conjunction, however, with article 5 below, it will be found that the classification adopted by the code of rules of aerial warfare corresponds very nearly with that prescribed in article 30 of the Convention mentioned above.

ARTICLE 2

The following shall be deemed to be public aircraft:

(*a*) Military aircraft.

(*b*) Non-military aircraft exclusively employed in the public service.

All other aircraft shall be deemed to be private aircraft.

A clear distinction must be made between aircraft which form part of the combatant forces in time of war and those which do not. Each class must be easily recognisable; this is essential if the immunities to which non-combatant aircraft are entitled are to be respected. Article 3 has been framed with this object.

ARTICLE 3

A military aircraft shall bear an external mark indicating its nationality and military character.

Public non-military aircraft are not in command of persons commissioned or enlisted in the fighting forces; consequently there must be evidence on board the aircraft of the service in which they are engaged. Such evidence is afforded by their papers. It will be seen by reference to article 51 below that aircraft of this class may be visited for the purpose of the verification of their papers.

ARTICLE 4

A public non-military aircraft employed for customs or police purposes shall carry papers evidencing the fact that it is exclusively employed in the public service. Such an aircraft shall bear an external mark indicating its nationality and its public non-military character.

Article 5 has been adopted for the purpose of regulating the position of State-owned aircraft employed in the postal service, or for commercial purposes. Such aircraft will be engaged in international traffic which should properly subject them to the same measures of control as those to which private aircraft are subject. They should also bear the same marks.

In terms the article applies to all public non-military aircraft other than those employed for customs or police purposes, following in this respect the language adopted in the last paragraph of article 30 of the Air Navigation Convention of 1919. It is in connection with aircraft employed in the postal service or for commercial purposes that it will find its chief application.

Objection has been expressed to this article by the Netherlands Delegation on the ground that its effect will be to subject State-owned aircraft to capture and to the jurisdiction of belligerent prize courts.

ARTICLE 5

Public non-military aircraft other than those employed for customs or police purposes shall in time of war bear the same external marks, and for the purposes of these rules shall be treated on the same footing, as private aircraft.

Private aircraft must in time of war bear marks to indicate their nationality and character and to enable the aircraft to be identified. It would be inconvenient that the marks to be borne in war time should differ from those borne in time of peace. For peace time the marks which a private aircraft is to bear are prescribed in the Air Navigation Convention of 1919. This Convention, however, is not universal in character and account must be taken of the position of States which are not parties to it. Nevertheless, all States, whether parties to the Convention or not, will before long have enacted legislation as to the marks which aircraft of that nationality are to bear. The Commission has therefore felt that it will be sufficient to lay down as the rule for time of war that aircraft must bear the marks which are prescribed by the legislation in force in their own country. Foreign Powers, whether belligerent or neutral, are not concerned with the enforcement of that legislation as such; that is a matter for the municipal courts of the country concerned. The object of the article is to afford to belligerent and neutral authorities a guide as to the marks which a private aircraft must bear.

ARTICLE 6

Aircraft not comprised in articles 3 and 4 and deemed to be private aircraft shall carry such papers and bear such external marks as are required by the rules in force in their own country. These marks must indicate their nationality and character.

Great abuses might prevail if the external marks affixed to an aircraft could be altered while the machine was in flight. It is also necessary that the marks should be clearly visible. The principles adopted in article 7 are in harmony with the provisions of the Air Navigation Convention of 1919.

ARTICLE 7

The external marks required by the above articles shall be so affixed that they cannot be altered in flight. They shall be as large as is practicable and shall be visible from above, from below, and from each side.

Each State chooses for itself the marks which its aircraft are to bear. The marks chosen for private aircraft in time of peace by States which are parties to the Air Navigation Convention of 1919 are set out in that Convention, and are generally known. It is equally important that the marks for public aircraft, whether military or non-military, should be equally well known, and also the marks chosen for private aircraft possessing the nationality of a State, which is not a party to the said Convention. Notification to all other Powers is, therefore, provided for of the marks prescribed by the rules in force in each State.

Necessity may arise for a change in the marks adopted by each State. When that happens the change must be notified. If the change is made in time of peace, there can be no difficulty in notifying it before it is brought into force.

In time of war changes must be notified as soon as possible and at latest when they are communicated by the State concerned to its own fighting forces. It will be important to a State, which changes the marks on its military aircraft in time of war, to notify the change as quickly as possible to its own forces, as otherwise the aircraft might run the risk of being shot down by their own side. For this reason no anxiety need be felt that there will be any attempt to evade compliance with the rule.

Regret has been expressed in some quarters that any change should be allowed in time of war of the marks adopted by a particular State. The practical reasons, however, in favour of allowing such modifications are overwhelming. The marks adopted by different countries for their military machines are in some cases not very dissimilar, and if war broke out between two countries whose military machines bore marks which were not readily distinguishable, it would be essential that a modification should be made.

ARTICLE 8

The external marks, prescribed by the rules in force in each State, shall be notified promptly to all other Powers.

Modifications adopted in time of peace of the rules prescribing external marks shall be notified to all other Powers before they are brought into force.

Modifications of such rules adopted at the outbreak of war or during hostilities shall be notified by each Power as soon as possible to all other Powers and at latest when they are communicated to its own fighting forces.

Article 9 is founded upon a proposal first submitted by the Japanese Delegation; an American proposal to the same effect was

submitted at a later stage. The subject of the article is one of some difficulty and one which has in times past been fruitful of discussions and disagreements in connection with warships, the Powers not having been able to agree whether the act of sovereignty involved in the commissioning of a warship might properly be exercised on the high seas (see the preamble to Convention VII of 1907).

The proposal received the support of a majority of the delegations only, the French Delegation being unable to accept it.

ARTICLE 9

A belligerent non-military aircraft, whether public or private, may be converted into a military aircraft, provided that the conversion is effected within the jurisdiction of the belligerent State to which the aircraft belongs and not on the high seas.

The proposal submitted by the Japanese Delegation would also have prevented the conversion of military aircraft into private aircraft except within the jurisdiction of the belligerent State concerned. The majority of the members of the Commission were of opinion that an article on this subject was not required. It does not seem likely that such conversion would be effected upon the high seas except for the purpose of enabling an aircraft, not otherwise entitled to do so, to enter neutral territory. There would be many practical difficulties in the way of any such conversion: not only would identity marks have to be affixed which would depend on the registration in the home State, but a civilian crew would have to be obtained and various certificates would be required, all of which should be dated. If the marks and papers belonging to some other aircraft were used, the marks and papers would be false. A fraud would have been practised on the neutral State. Even if the proceedings were authorised by the belligerent State concerned, so that it would be valid under its own law, the marks would still be false marks so far as concerned the neutral State, and if it became aware of the fraud committed, it would be justified in disregarding the conversion.

Article 10 adopts for time of war a principle which has already been adopted for private aircraft in time of peace by article 8 of the Air Navigation Convention of 1919.

ARTICLE 10

No aircraft may possess more than one nationality.

CHAPTER II. GENERAL PRINCIPLES

Article 11 embodies the general principle that outside the jurisdiction of any State, *i. e.*, in the air space over the high seas, all aircraft have full freedom of passage. Provisions embodied in other

articles which restrict the liberty of individual aircraft are to be regarded as exceptions to this general principle.

ARTICLE 11

Outside the jurisdiction of any State, belligerent or neutral, all aircraft shall have full freedom of passage through the air and of alighting.

In time of peace many States are subject to treaty obligations requiring them to allow aircraft of other States to circulate in the air space above their territory. In time of war a State must possess greater freedom of action. Article 12 therefore recognises the liberty of each State to enact such rules on this subject as it may deem necessary.

ARTICLE 12

In time of war any State, whether belligerent or neutral, may forbid or regulate the entrance, movement or sojourn of aircraft within its jurisdiction.

KNOWLEDGE OF THE EXISTENCE OF THE WAR

Among the provisions contained in the original American draft was an article to the following effect:

The liability of an aircraft for violation of the laws of war is contingent upon her actual or constructive knowledge of the existence of the war.

The discussions upon this article led the American Delegation to withdraw the proposal.

Knowledge of the existence of a state of war was frequently in the past an important element in deciding cases instituted in prize courts for the condemnation of a ship or goods. Sailing ships were often at sea in old days for months without touching at any port, and under such conditions it was easy for a vessel to be unaware of the outbreak of war. The question diminished in importance when steamships tended to replace sailing ships, and diminished still more in importance when wireless telegraphy was invented and fitted to sea-going ships.

With aircraft the case is different; the velocity of their flight and the small suplies of fuel which they can carry will render it unusual for a flight to exceed twelve hours in length. Cases are therefore not likely to arise in which there can be any doubt of the actual knowledge of the existence of a state of war, or in which constructive knowledge has to be relied on. Furthermore, all aircraft of important size are likely to be fitted with a wireless installation.

The Declaration of London, framed in 1909, contained provisions on this subject (see articles 43 and 45), and it was then found necessary to deal with the matter in greater detail than is attempted in the above American proposal. Until experience shows that it is necessary to frame a rule on this subject for aircraft, it seems more

prudent to leave the matter to rest on the basis of the general rules of international law.

So far as concerns neutral Powers, the Convention on the Opening of Hostilities (No. III of 1907) lays down that the existence of a state of war must be notified to neutral Powers, and that they are subject to no obligations arising therefrom until the receipt of such notification. They cannot, however, rely on the absence of any such notification, if it can be established that they were actually aware of the existence of the state of war. This provision seems adequate and satisfactory.

Chapter III. Belligerents

The use of privateers in naval warfare was abolished by the Declaration of Paris, 1856. Belligerent rights at sea can now only be exercised by units under the direct authority, immediate control and responsibility of the State. This same principle should apply to aerial warfare. Belligerent rights should therefore only be exercised by military aircraft.

Article 13

Military aircraft are alone entitled to exercise belligerent rights.

Operations of war involve the responsibility of the State. Units of the fighting forces must, therefore, be under the direct control of persons responsible to the State. For the same reason the crew must be exclusively military in order that they may be subject to military discipline.

Article 14

A military aircraft shall be under the command of a person duly commissioned or enlisted in the military service of the State; the crew must be exclusively military.

Combatant members of the armed land forces must, if they are not in uniform, wear at least a distinctive emblem. So long as the officers or crew of a military aircraft are on board the aircraft there is no risk of any doubt as to their combatant status, but if they are forced to land they may become separated from the machine. In that event it is necessary for their own protection that their combatant status should be easily recognised.

Article 15

Members of the crew of a military aircraft shall wear a fixed distinctive emblem of such character as to be recognisable at a distance in case they become separated from their aircraft.

The next article indicates the aircraft which may engage in hostilities, and forbids private aircraft from being armed when they are outside the jurisdiction of their own country.

The immunities which a belligerent is bound to respect in a non-combatant impose upon the non-combatant a corresponding obligation not to take part in hostilities. This principle applies equally to aerial warfare. If a distinction is to be drawn between military and other aircraft, the distinction must be observed on both sides, and non-military aircraft must not attempt to engage in hostilities in any form.

To give full effect to this principle, a non-military aircraft must be debarred from transmitting, during flight, military intelligence for the benefit of a belligerent. This rule will be seen to be natural and logical if the peculiar characteristics of aircraft are borne in mind. It is as scouts and observers that one of their principal uses is found in time of war. If non-military aircraft were to be allowed to act in this capacity, injury of very serious consequence might be done to the opposing belligerent. If exposed to such risk, no belligerent could agree to respect the immunities which a non-combatant aircraft should enjoy, and the only way to ensure such respect is to recognise that the transmission of military intelligence for the benefit of a belligerent is a participation in hostilities, which would constitute a violation of the laws of war and would be dealt with accordingly.

The rule as framed has been restricted within the narrowest limits compatible with military safety. It is limited to transmission of intelligence during flight. When the flight has been completed, the individual concerned will be within the jurisdiction of some State, and there the control of the transmission of information will be subject to the regulations of that State. It will not be affected by the provisions of this article.

The mounting of arms in time of war may be construed as *primâ facie* evidence of an intention to take part in hostilities. It is true that of recent years certain States found it necessary to arm merchant ships in self-protection, but the conditions of air warfare are so different that it has not been thought necessary to allow for such a proceeding on the part of aircraft. A gun would not be an adequate protection to an aircraft against illegal attack, as the first warning the aircraft might have of any such attack would be an act which might involve its destruction.

On the other hand, to permit private aircraft to be armed would facilitate acts of perfidy on the part of an opposing belligerent; an aircraft masquerading under false marks might suddenly open fire, and the risk of this would be sufficient to render it dangerous for an honest belligerent to respect the immunities of private aircraft to the extent which he would wish.

The interests of private aircraft are from every point of view better served by the adoption of a rule against the arming of private aircraft in time of war.

The article as framed does not extend to aircraft within the jurisdiction of their own State. Such an extension would be an unreasonable interference with the domestic jurisdiction of the State concerned.

The rule against aircraft being armed is limited to private aircraft. Public non-military aircraft engaged in customs or police work may find it necessary to carry arms because the fulfillment of their functions renders it essential for them to be able to apply coercion in case of need. In their case, the carriage of arms would raise no presumption of an intention to take part in hostilities, but they are subject just as much as private aircraft to the provisions of the first two paragraphs of the article.

ARTICLE 16

No aircraft other than a belligerent military aircraft shall engage in hostilities in any form.

The term "hostilities" includes the transmission during flight of military intelligence for the immediate use of a belligerent.

No private aircraft, when outside the jurisdiction of its own country, shall be armed in time of war.

The provisions of the Geneva Convention have been applied to maritime warfare by the Convention signed at The Hague in 1907 (Convention X of 1907). It will probably be found desirable to extend them in due course to warfare in the air and to negotiate a special convention for this purpose. Pending the conclusion of any such convention, a rule has been adopted stating broadly that these conventions apply to aerial warfare. Flying ambulances should enjoy the privileges and immunities conferred by the Geneva Convention upon mobile medical units or sanitary formations. The work of such flying ambulances must, of course, be carried out subject to similar conditions of belligerent control as those laid down in the Conventions of 1906 and 1907, and they must devote themselves to the task of succouring all wounded impartially in accordance with the principles embodied in these Conventions. When the new special convention referred to above is concluded, the opportunity will no doubt be taken to extend to flying ambulances the exemption from dues already conferred by treaty upon hospital ships which enter a foreign port.

ARTICLE 17

The principles laid down in the Geneva Convention, 1906, and the Convention for the adaptation of the said Convention to Maritime War (No. X of 1907) shall apply to aerial warfare and to flying ambulances, as well as to the control over flying ambulances exercised by a belligerent commanding officer.

In order to enjoy the protection and privileges allowed to mobile medical units by the Geneva Convention, 1906, flying ambulances must bear the distinctive emblem of the Red Cross in addition to the usual distinguishing marks.

Chapter IV. Hostilities

Article 18 is intended to clear up a doubt which arose during the recent war. The use of tracer bullets against aircraft was a general practice in all the contending armies. In the absence of a hard surface on which the bullet will strike, an airman cannot tell whether or not his aim is correct. These bullets were used for the purpose of enabling the airman to correct his aim, as the trail of vapour which they leave behind indicates to him the exact line of fire. In one case, however, combatant airmen were arrested and put on trial on the ground that the use of these bullets constituted a breach of the existing rules of war laid down by treaty.

The use of incendiary bullets is also necessary as a means of attack against lighter-than-air craft, as it is by setting fire to the gas contained by these aircraft that they can most easily be destroyed.

In the form in which the proposal was first brought forward its provisions were limited to a stipulation that the use of tracer bullets against aircraft generally was not prohibited.

Various criticisms were, however, made about the proposed text, chiefly founded on the impracticability for an airman while in flight to change the ammunition which he is using in the machine gun in his aircraft. He cannot employ different bullets in accordance with the target at which he is aiming, one sort of ammunition for other aircraft and another sort for land forces by whom he may be attacked.

The Commission, therefore, came to the conclusion that the most satisfactory solution of the problem would be to state specifically that the use of tracer, incendiary or explosive projectiles by or against aircraft is not prohibited.

Article 18

The use of tracer, incendiary or explosive projectiles by or against aircraft is not prohibited.

This provision applies equally to States which are parties to the Declaration of St. Petersburg, 1868, and to those which are not.

In order that there may be no doubt that the use of false external marks is not a legitimate ruse it has been specifically prohibited. By later provisions in the rules, the use of false external marks is made a ground for capture and condemnation of a neutral aircraft.

What are here referred to are false marks of nationality or character, the marks which are dealt with in Chapter I of these rules. The article would not apply to mere squadron badges or other emblems which are only of interest to one particular belligerent force.

ARTICLE 19

The use of false external marks is forbidden.

Another mode of injuring the enemy, which it has seemed desirable to prohibit, is that of firing at airmen escaping from a disabled aircraft.

ARTICLE 20

When an aircraft has been disabled, the occupants, when endeavouring to escape by means of a parachute, must not be attacked in the course of their descent.

Incidents took place in the recent war which showed the desirability of having a distinct rule on the question whether the dropping of leaflets for propaganda purposes was a legitimate means of warfare.

Attempts were made by one belligerent to impose heavy penalties on airmen who were forced to descend within his lines after engaging in this work.

Article 21 has been framed to meet this case. It is not limited to dropping leaflets, as aircraft can disseminate propaganda by other means, such for instance, as emitting trails of smoke in the form of words in the sky.

What is legalised by the article is the use of aircraft for distributing propaganda. It does not follow that propaganda of all kinds is thereby validated. Incitements to murder or assassination will, for instance, still be considered illegitimate forms of propaganda.

ARTICLE 21

The use of aircraft for the purpose of disseminating propaganda shall not be treated as an illegitimate means of warfare.

Members of the crews of such aircraft must not be deprived of their rights as prisoners of war on the charge that they have committed such an act.

BOMBARDMENT

The subject of bombardment by aircraft is one of the most difficult to deal with in framing any code of rules for aerial warfare.

The experiences of the recent war have left in the mind of the world at large a lively horror of the havoc which can be wrought by the indiscriminate launching of bombs and projectiles on the non-combatant populations of towns and cities. The conscience of mankind revolts against this form of making war in places outside the actual theatre of military operations, and the feeling is universal that limitations must be imposed.

On the other hand, it is equally clear that the aircraft is a potent engine of war, and no State which realises the possibility that it may

itself be attacked, and the use to which its adversary may put his air forces can take the risk of fettering its own liberty of action to an extent which would restrict it from attacking its enemy where that adversary may legitimately be attacked with effect. It is useless, therefore, to enact prohibitions unless there is an equally clear understanding of what constitute legitimate objects of attack, and it is precisely in this respect that agreement was difficult to reach.

Before passing to a consideration of the articles which have been agreed, mention must be made of the Declaration prohibiting the Discharge of Projectiles and Explosives from Balloons, signed at The Hague in 1907. Three of the States represented on the Commission [22] are parties to that Declaration; the other three are not. Under the terms of this Declaration the Contracting Powers agree to prohibit the discharge of projectiles and explosives from balloons *or by other new methods of a similar nature*. Its terms are, therefore, wide enough to cover bombardment by aircraft. On the other hand, the scope of the Declaration is very limited; in duration it is to last only until the close of the Third Peace Conference, a conference which was to have been summoned for 1914 or 1915, and its application is confined to a war between contracting States without the participation of a non-contracting State.

The existence of this Declaration can afford no solution of the problems arising out of the question of bombardment from the air, even for the States which are parties to it.

The number of parties is so small that, even if the Declaration were renewed, no confidence could ever be felt that when a war broke out it would apply. A general agreement, therefore, on the subject of bombardment from the air is much to be desired. For the States which are parties to it, however, the Declaration exists and it is well that the legal situation should be clearly understood.

As between the parties it will continue in force and will operate in the event of a war between them, unless by mutual agreement its terms are modified, or an understanding reached that it shall be regarded as replaced by some new conventional stipulation; but it will in any case cease to operate at the moment when a Third Peace Conference concludes its labours, or if any State which is not a party to the Declaration intervenes in the war as a belligerent.

No difficulty was found in reaching an agreement that there are certain purposes for which aerial bombardment is inadmissible.

Article 22 has been formulated with this object.

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[22] United States of America, Great Britain, and The Netherlands.

ARTICLE 22

Aerial bombardment for the purpose of terrorising the civilian population, of destroying or damaging private property not of military character, or of injuring non-combatants is prohibited.

The Naval Bombardment Convention of 1907 (No. IX) allows bombardment for enforcing payment of requisitions for supplies necessary for the immediate use of the naval forces (article 3), but not for enforcing payment of money contributions (article 4).

For aerial warfare it has been decided to adopt the more stringent rule of the Land Warfare Regulations.

ARTICLE 23

Aerial bombardment for the purpose of enforcing compliance with requisitions in kind or payment of contributions in money is prohibited.

Agreement on the following article specifying the objects which may legitimately be bombarded from the air was not reached without prolonged discussion. Numerous proposals were put forwad by the various delegations before unanimity was ultimately attained. The text of these proposals will be found in the minutes. In particular, mention may be made of an Italian proposal of the 8th February, on which the text ultimately adopted was in great part founded. Regret was expressed by some delegations that a more far-reaching prohibition did not meet with unanimous acceptance.

The terms of the article are so clear that no explanation of the provisions is necessary, but it may be well to state that in the phrase in paragraph 2 "military establishments or depots" the word "depots" is intended to cover all collections of supplies for military use which have passed into the possession of the military authorities and are ready for delivery to the forces, "distinctively military supplies" in the succeeding phrase is intended to cover those which by their nature show that they are certainly manufactured for military purposes.

If the code of rules of aerial warfare should eventually be annexed to a convention, paragraph 5 of the article would find a more appropriate place in the convention.

It will be noticed that for aerial bombardment the test adopted in article 25 of the Land Warfare Regulations, that of the town, &c., being defended, is abandoned. The nature of the objective or the use to which it is being put now becomes the test.

ARTICLE 24

1. Aerial bombardment is legitimate only when directed at a military objective, that is to say, an object of which the destruction or injury would constitute a distinct military advantage to the belligerent.

2. Such bombardment is legitimate only when directed exclusively at the following objectives; military forces; military works; military establishments or depots; factories constituting important and well-known centres engaged in the manufacture of arms, ammunition or distinctively military supplies; lines of communication or transportation used for military purposes.

3. The bombardment of cities, towns, villages, dwellings or buildings not in the immediate neighbourhood of the operations of land forces is prohibited. In cases where the objectives specified in paragraph 2 are so situated that they cannot be bombarded without the indiscriminate bombardment of the civilian population, the aircraft must abstain from bombardment.

4. In the immediate neighbourhood of the operations of land forces, the bombardment of cities, towns, villages, dwellings or buildings is legitimate provided that there exists a reasonable presumption that the military concentration is sufficiently important to justify such bombardment, having regard to the danger thus caused to the civilian population.

5. A belligerent State is liable to pay compensation for injuries to person or to property caused by the violation by any of its officers or forces of the provisions of this article.

Both in land warfare and in maritime warfare the principle has been adopted that certain special classes of buildings must be spared so far as possible in case of bombardment; for the former, by article 27 of the Land Warfare Regulations, for the latter by article 5 of the Naval Bombardment Convention of 1907 (No. IX). A similar provision, largely based on that in the Naval Bombardment Convention, has been adopted as article 25. By day, these privileged buildings must be marked in a way which will make them visible to aircraft; the marks agreed on being those laid down in the Geneva Convention and in the Naval Bombardment Convention; the use of such marks is made obligatory so as to correspond with the duty placed on the adversary of sparing such buildings. By night, however, the use of lights to make the special signs visible is optional, because experience has shown that such lights may serve as guides to night-flying aircraft and may thereby be of service to the enemy.

ARTICLE 25

In bombardment by aircraft, all necessary steps must be taken by the commander to spare as far as possible buildings dedicated to public worship, art, science, or charitable purposes, historic monuments, hospital ships, hospitals and other places where the sick and wounded are collected, provided such buildings, objects or places are not at the time used for military purposes. Such buildings, objects and places must by day be indicated by marks visible to aircraft. The use of marks to indicate other buildings, objects or places than those specified above is to be deemed an act of perfidy. The marks used as aforesaid shall be in the case of buildings protected under the Geneva Convention the red cross on a white ground, and in the case of other protected buildings a large rectangular panel divided diagonally into two pointed triangular portions, one black and the other white.

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A belligerent who desires to secure by night the protection for the hospitals and other privileged buildings above mentioned must take the necessary measures to render the special signs referred to sufficiently visible.

A proposal was submitted by the Italian Delegation for the purpose of securing better protection from aerial bombardment for important historic monuments. During the recent war it was not found that the articles in the Land Warfare Regulations and the Naval Bombardment Convention were sufficient to prevent historic monuments from being bombarded. An unscruplous opponent can always allege that they are being used for military purposes and ignore the written agreements accordingly. There is also the possibility that in the attack on some object which is a legitimate subject for bombardment, a historic monument in the immediate vicinity may be injured.

The Italian proposal comprised two new features, the creation of a zone round each historic monument within which the State was to be debarred from committing any act which constituted a use of the area for military purposes, and a system of inspection under neutral auspices to ensure that the undertaking was carried out, both as regards the monument itself and the zone. By this means any pretext for the bombardment would be removed, and the risk of unintentional injury would be minimised.

The proposal received the sympathetic consideration of all the Delegations and it was accordingly remitted to an expert committee for more detailed consideration. Article 26 has been prepared in the light of their report.

The Italian proposal comprised not only historic but also artistic monuments. It has seemed better to omit the word "artistic" for fear lest a divergence should appear to be created between the new article and article 25, the language of which is modelled on article 27 of the Land Warfare Regulations and article 5 of the Naval Bombardment Convention (No. IX of 1907). The words "historic monument" in this article are used in a broad sense. They cover all monuments which by reason of their great artistic value are historic to-day or will become historic in the future.

It should be clearly understood that adoption of the system is only permissive. If a State prefers to trust only to article 25 to secure protection of its monuments, there is no obligation upon it to notify them to other Powers in peace time and to establish the surrounding zones which are not to be used for military purposes.

The notification must be made through the diplomatic channel. It will then be open to any State receiving the notification, if it thinks it necessary to do so, to question within a reasonable time the propriety of regarding a particular place as an historic monument. If no

question is raised with regard to the monuments notified, other States will be regarded as having accepted the demand for the protection of such monuments from bombardment, and the immunity will then rest on the basis of agreement. For the same reason the notification once made must not be withdrawn after the outbreak of hostilities.

Considerable hesitation was expressed in accepting the provision that notification must be made in time of peace. It was urged that the system proposed was a new procedure, that particular monuments might be forgotten, and that more elasticity should be allowed. On the other hand, it was urged that the essence of the scheme was to get agreement as to the immunity of these monuments, and that unless notification in time of war was excluded, it was not likely that any would be notified in time of peace.

The effect of allowing a 500-metre zone to be drawn round each monument may well be that in certain special cases, as, for instance, Venice or Florence, which are particularly rich in ancient and historic monuments, a large portion of the city would be comprised within the protected zones. The zones round each monument will overlap and so create a continuous area. The subsequent provisions will, however, ensure that there is a complete absence of military use of any portion of the area so protected.

It was agreed that if the belligerents did not for military reasons place the signs indicated in the article, enemy aviators had no right by reason merely of their absence to bombard the zone in question, if it had been duly determined and notified.

In their report, the experts stated that they considered that the marks designed to indicate the zones of protection round monuments should differ in design from those prescribed by article 25 for the historic monuments themselves. The Commission took note of this recommendation.

The prohibition against the use of the zone surrounding the monument must be very strictly interpreted. There must be a complete cessation of the use of any place, including, for instance, factories and railway lines, with a military purpose in view.

The special committee of inspection provided for by the article will be constituted by the State which has taken advantage of the article. There would not seem to be any need to establish the committee until the outbreak of war. As these special arrangements will have to be made in order to secure full protection for its historic monuments, the State will be bound to afford to this committee the fullest opportunity for making the investigations they may think necessary.

ARTICLE 26

The following special rules are adopted for the purpose of enabling States to obtain more efficient protection for important historic monuments situated within their territory, provided that they are willing to refrain from the use of such monuments and a surrounding zone for military purposes, and to accept a special régime for their inspection:

1. A State shall be entitled, if it sees fit, to establish a zone of protection round such monuments situated in its territory. Such zones shall in times of war enjoy immunity from bombardment.

2. The monuments round which a zone is to be established shall be notified to other Powers in peace time through the diplomatic channel; the notification shall also indicate the limits of the zones. The notification may not be withdrawn in time of war.

3. The zone of protection may include, in addition to the area actually occupied by the monument or group of monuments, an outer zone, not exceeding 500 metres in width, measured from the circumference of the said area.

4. Marks clearly visible from aircraft either by day or by night will be employed for the purpose of ensuring the identification by belligerent airmen of the limits of the zones.

5. The marks on the monuments themselves will be those defined in article 25. The marks employed for indicating the surrounding zones will be fixed by each State adopting the provisions of this article, and will be notified to other Powers at the same time as the monuments and zones are notified.

6. Any abusive use of the marks indicating the zones referred to in paragraph 5 will be regarded as an act of perfidy.

7. A State adopting the provisions of this article must abstain from using the monument and the surrounding zone for military purposes, or for the benefit in any way whatever of its military organisation, or from committing within such monument or zone any act with a military purpose in view.

8. An inspection committee consisting of three neutral representatives accredited to the State adopting the provisions of this article, or their delegates, shall be appointed for the purpose of ensuring that no violation is committed of the provisions of paragraph 7. One of the members of the committee of inspection shall be the representative (or his delegate) of the State to which has been entrusted the interests of the opposing belligerent.

ESPIONAGE

The articles dealing with espionage follow closely the precedent of the Land Warfare Regulations.

Article 27 is a verbal adaptation of the first paragraph of article 29 of the Regulations, so phrased as to limit it to acts committed while in the air.

Consideration has been given to the question whether there was any need to add to the provision instances of actions which were not to be deemed acts of espionage, such as those which are given at the end of article 29 in the Regulations, and it was suggested that article 29 [23] of the American draft might appropriately be introduced in this manner. It was decided that this was unnecessary.

[23] Acts of the personnel of correctly marked enemy aircraft, public or private, done or performed while in the air, are not to be deemed espionage.

The article sumitted by the American Delegation was intended to ensure that reconnaissance work openly done behind the enemy lines by aircraft should not be treated as spying. It is not thought likely that any belligerent would attempt to treat it as such.

ARTICLE 27

Any person on board a belligerent or neutral aircraft is to be deemed a spy only if acting clandestinely or on false pretences he obtains or seeks to obtain, while in the air, information within belligerent jurisdiction or in the zone of operations of a belligerent with the intention of communicating it to the hostile party.

Acts of espionage by members of the crew of an aircraft or by persons who have been carried in an aircraft may well be committed after they have left the aircraft. They will in that case be subject to the Land Warfare Regulations.

ARTICLE 28

Acts of espionage committed after leaving the aircraft by members of the crew of an aircraft or by passengers transported by it are subject to the provisions of the Land Warfare Regulations.

Two rules have been adopted in land warfare with respect to espionage which should apply equally to aerial warfare. These are that a spy cannot be punished without previous trial, and that a member of an army who commits an act of espionage and succeeds in rejoining the army cannot, if he is subsequently captured, be made responsible for the previous act of espionage. He is entitled to be treated as a prisoner of war.

ARTICLE 29

Punishment of the acts of espionage referred to in articles 27 and 28 is subject to articles 30 and 31 of the Land Warfare Regulations.

CHAPTER V. MILITARY AUTHORITY OVER ENEMY AND NEUTRAL AIRCRAFT AND PERSONS ON BOARD

The rapidity of its flight would enable an aircraft to embarrass the operations of land or sea forces, or even operations in the air, to an extent which might prove most inconvenient or even disastrous to a belligerent commander. To protect belligerents from improper intrusions of this kind, it is necessary to authorise belligerent commanders to warn off the intruders, and, if the warning is disregarded, to compel their retirement by opening fire.

It is easy to see that undue hardship might be occasioned to neutrals if advantage were taken of the faculty so conferred on belligerent commanding officers and attempts were made to exclude

for long or indefinite periods all neutrals from stipulated areas or to prevent communication between different countries through the air over the high seas. The present provision only authorises a commanding officer to warn off aircraft during the duration of the operations in which he is engaged at the time. The right of neutral aircraft to circulate in the airspace over the high seas is emphasised by the provisions of article 11, which provides that "outside the jurisdiction of any State, belligerent or neutral, all aircraft shall have full freedom of passage through the air and of alighting."

Article 30 is confined in terms to neutral aircraft, because enemy aircraft are in any event exposed to the risk of capture, and in the vicinity of military operations are subjected to more drastic treatment than that provided by this article.

It will be noticed that the terms of the article are general in character and would comprise even neutral public or military aircraft. It goes without saying that the article is not intended to imply any encroachment on the rights of neutral States. It is assumed that no neutral public or military aircraft would depart so widely from the practice of States as to attempt to interfere with or intrude upon the operations of a belligerent State.

ARTICLE 30

In case a belligerent commanding officer considers that the presence of aircraft is likely to prejudice the success of the operations in which he is engaged at the moment, he may prohibit the passing of neutral aircraft in the immediate vicinity of his forces or may oblige them to follow a particular route. A neutral aircraft which does not conform to such directions, of which he has had notice issued by the belligerent commanding officer, may be fired upon.

The power to requisition aircraft in occupied enemy territory is recognised in article 53 of the Land Warfare Regulations. The text of article 53 is not specific as to whether it includes neutral property, and though in practice it is regarded as doing so, it has been thought well to adopt a special rule in harmony with article 53. It is not unreasonable that neutral owners of property should receive payment for their property at once, as they are not concerned with the peace which will be ultimately concluded.

ARTICLE 31

In accordance with the principles of article 53 of the Land Warfare Regulations, neutral private aircraft found upon entry in the enemy's jurisdiction by a belligerent occupying force may be requisitioned, subject to the payment of full compensation.

Property of the enemy State, which may be used for operations of war, is always liable to confiscation if it falls into the hands of the

opposing belligerent. It is natural, therefore, that public aircraft of the enemy should be so treated.

Article 17 will create an exception in favour of flying ambulances as they will be protected by article 6 of the Geneva Convention, but this exception will be subject to the principle laid down in article 7 of the same Convention that the protection accorded to mobile medical units ceases if they are made use of to commit acts harmful to the enemy.

ARTICLE 32

Enemy public aircraft, other than those treated on the same footing as private aircraft, shall be subject to confiscation without prize proceedings.

Non-military aircraft of belligerent nationality, whether public or private, should not in general be exposed to the risk of instant destruction, but should be given the opportunity to land. If they are flying in the jurisdiction of their own State and enemy military aircraft approach, they should, for their own protection, make the nearest available landing. Failure to do so exposes them to the risk of being fired upon.

ARTICLE 33

Belligerent non-military aircraft, whether public or private, flying within the jurisdiction of their own State, are liable to be fired upon unless they make the nearest available landing on the approach of enemy military aircraft.

The preceding article has dealt with the case of belligerent non-military aircraft flying in the jurisdiction of their own State. Article 34 deals with the same category of aircraft in certain other circumstances. If such aircraft are in the immediate vicinity of the territory of the enemy State, or in the immediate vicinity of its military operations by land or sea, they run the risk of being fired upon. They are, of course, liable to capture by reason of their enemy status, but in an area where it is probable that military operations will be in progress, or in any place where they are actually in progress, non-combatant aircraft of belligerent nationality can only proceed at their own risk. By their mere presence they expose themselves to the risk of being fired upon.

ARTICLE 34

Belligerent non-military aircraft, whether public or private, are liable to be fired upon, if they fly (1) within the jurisdiction of the enemy, or (2) in the immediate vicinity thereof and outside the jurisdiction of their own State, or (3) in the immediate vicinity of the military operations of the enemy by land or sea.

The principle has already been recognised in article 30 that a belligerent commanding officer may warn off neutral aircraft from

the immediate vicinity of his military operations. If they fail to comply with such a warning, they run the risk of being fired upon. Article 35 deals with neutral aircraft which may be flying within the jurisdiction of a belligerent country at a moment when military aircraft of the opposing belligerent approach. If warned of the approach of such military aircraft, it is their duty to make a landing; otherwise they might hamper the movements of the combatants and expose themselves to the risk of being fired upon. They are not, however, exposed to the risk of capture and condemnation as are neutral aircraft failing to comply with directions issued by a belligerent commander under article 30.

ARTICLE 35

Neutral aircraft flying within the jurisdiction of a belligerent, and warned of the approach of military aircraft of the opposing belligerent, must make the nearest available landing. Failure to do so exposes them to the risk of being fired upon.

Article 36 regulates the position of members of the crew and of passengers of an enemy aircraft which falls into the hands of a belligerent.

If the aircraft is a military aircraft, the crew will consist of members of the military forces and will, of course, be made prisoners of war. Any passengers will share the same fate, because in time of war a belligerent State would not be using its military aircraft for carrying non-combatant individuals unless their journey was a matter of importance to the State. Combatant passengers would naturally be made prisoners of war.

In the case of public non-military aircraft, the same principle applies. It is true that the members of the crew may not be members of the military forces, but they constitute part of the State organisation. As to passengers, they would not be carried on such aircraft, except for Government purposes. There is, however, one important exception. A State-owned passenger-carrying aircraft line is not by any means an unlikely development and, if such should be instituted, there would be no reason to apply this principle to all the passengers on such aircraft. They should only be made prisoners of war if in the service of the enemy, or enemy nationals fit for military service.

As regards private aircraft, it must be remembered that the crew will consist of trained men, constituting a reserve upon which the belligerent can draw in case of need. If they are of enemy nationality, or in the service of the enemy, there is good reason to hold them as prisoners of war. If they are neutrals not in the service of the enemy, they are by their service on board an enemy aircraft releasing other men for military purposes. If they are to be

given their release, the belligerent should be entitled to protect himself in the future against such indirect assistance by exacting an undertaking from each individual against his serving in an enemy aircraft during the remainder of the war. Such an undertaking corresponds to that provided for in the second paragraph of article 5 of the Convention concerning restrictions on the right of capture in maritime war (No. XI of 1907). It was adopted there only for the officers of a merchant vessel, because the officers are the highly trained men. In the case of aircraft, it is reasonable to extend it to all the members of the crew.

What is said in the report on article 37 dealing with the crew and passengers of *neutral* private aircraft as to temporary delay in effecting the release in certain cases and as to members of the crew or passengers who have rendered special services to the belligerent being made prisoners of war, applies also in the case of the crew and passengers of an enemy aircraft.

ARTICLE 36.

When an enemy military aircraft falls into the hands of a belligerent, the members of the crew and the passengers, if any, may be made prisoners of war.

The same rule applies to the members of the crew and the passengers, if any, of an enemy public non-military aircraft, except that in the case of public non-military aircraft devoted exclusively to the transport of passengers, the passengers will be entitled to be released unless they are in the service of the enemy, or are enemy nationals fit for military service.

If an enemy private aircraft falls into the hands of a belligerent, members of the crew who are enemy nationals or who are neutral nationals in the service of the enemy, may be made prisoners of war. Neutral members of the crew, who are not in the service of the enemy, are entitled to be released if they sign a written undertaking not to serve in any enemy aircraft while hostilities last. Passengers are entitled to be released unless they are in the service of the enemy or are enemy nationals fit for military service, in which cases they may be made prisoners of war.

Release may in any case be delayed if the military interests of the belligerent so require.

The belligerent may hold as prisoners of war any member of the crew or any passenger whose service in a flight at the close of which he has been captured has been of special and active assistance to the enemy.

The names of individuals released after giving a written undertaking in accordance with the third paragraph of this article will be notified to the opposing belligerent, who must not knowingly employ them in violation of their undertaking.

When circumstances have arisen which have led to the detention of a neutral private aircraft by a belligerent, the question will arise of the treatment to be meted out to the crew and to the passengers, if any, of such aircraft. In general, the crew of an aircraft will be very expert individuals, whose services would be of great value to a

belligerent. If they are of enemy nationality or in the service of the enemy, or engaged in a violation of neutrality, there is good reason for detaining them as prisoners of war. If not, they should be released unconditionally.

Passengers who are in the service of the enemy or who are enemy nationals fit for military service may likewise be detained.

Immediate release of persons who cannot be made prisoners of war may not in all cases be feasible. The fact that military exigencies may necessitate a temporary delay in according release does not prejudice the right to such release in due course.

The peculiar characteristics of aircraft may enable members of the crew or passengers in a neutral aircraft in time of war to render services of special importance to a belligerent. Where such services have been rendered in the course of the flight in which such persons were captured, the individuals may be made prisoners of war, whatever their nationality.

The rules adopted on this subject are in conformity with the practice of the recent war, but they have not secured unanimous assent. The Netherlands Delegation has felt unable to accept them for two reasons, viz., firstly, that they constitute an extension of the accepted rules of international law, and, secondly, because of the absence of any provision to the effect that where the detention of the aircraft has taken place in circumstances which are subsequently made the subject of prize court proceedings, and the capture is held to be invalid, the crew and passengers of the aircraft should be released unconditionally.

Article 37

Members of the crew of a neutral aircraft which has been detained by a belligerent shall be released unconditionally, if they are neutral nationals and not in the service of the enemy. If they are enemy nationals or in the service of the enemy, they may be made prisoners of war.

Passengers are entitled to be released unless they are in the service of the enemy or are enemy nationals fit for military service, in which cases they may be made prisoners of war.

Release may in any case be delayed if the military interests of the belligerent so require.

The belligerent may hold as prisoners of war any member of the crew or any passenger whose service in a flight at the close of which he has been captured has been of special and active assistance to the enemy.

The phrase "prisoner of war" in its narrower sense is applied to the combatant and non-combatant members of the armed forces of the belligerent (see article 3 of the Land Warfare Regulations). It is used in articles 36 and 37 in a broader sense and is applied to passengers or members of the crew of neutral and enemy aircraft who may not be members of the belligerent armed forces at all. To

avoid any risk of doubt as to the treatment to which such persons are entitled article 38 lays down that their treatment shall not be less favourable than that to which members of the armed forces are entitled.

ARTICLE 38

Where under the provisions of articles 36 and 37 it is provided that members of the crew or passengers may be made prisoners of war, it is to be understood that, if they are not members of the armed forces, they shall be entitled to treatment not less favourable than that accorded to prisoners of war.

CHAPTER VI. BELLIGERENT DUTIES TOWARDS NEUTRAL STATES AND NEUTRAL DUTIES TOWARDS BELLIGERENT STATES

To avoid any suggestion that it is on the neutral Government alone that the obligation is incumbent to secure respect for its neutrality, article 39 provides that belligerent aircraft are under obligation to respect the rights of neutral Powers and to abstain from acts within neutral jurisdiction which it is the neutral's duty to prevent.

It will be noticed that the article is not limited to military aircraft; in fact, the second phrase will apply only to belligerent aircraft of other categories, as it is they alone which may remain at liberty within neutral jurisdiction. All aircraft, however, including military, are bound to respect the rights of neutral Powers.

ARTICLE 39

Belligerent aircraft are bound to respect the rights of neutral Powers and to abstain within the jurisdiction of a neutral State from the commission of any act which it is the duty of that State to prevent.

The principle that belligerent military aircraft should not be allowed to enter or circulate in neutral jurisdiction met with ready acceptance. It is in conformity with the rule adopted by the European States during the recent war.

The immunities and privileges which article 17 confers on flying ambulances will enable the neutral State to admit them to its jurisdiction, if it sees fit.

ARTICLE 40

Belligerent military aircraft are forbidden to enter the jurisdiction of a neutral State.

The customary rules of international law authorise the admission of belligerent warships to neutral ports and waters. There is no obligation upon neutral States to admit warships belonging to belligerent States, but it is not in general refused. The admission of belligerent military aircraft, however, is prohibited by article 40,

and account must therefore be taken of the fact that it has now become the practice for warships to have a certain number of aircraft assigned to them and that these aircraft usually rest on board the warship. While they remain on board the warship they form part of it, and should be regarded as such from the point of view of the regulations issued by the neutral States. They will therefore be allowed to enter the neutral jurisdiction on the same footing as the warship on board which they rest, but they must remain on board the warship and must not commit any act which the warship is not allowed to commit.

ARTICLE 41

Aircraft on board vessels of war, including aircraft-carriers, shall be regarded as part of such vessels.

The principle is well established in land warfare that combatant forces of a belligerent must not penetrate within neutral jurisdiction. If they do, they are beyond the reach of their enemy: they have entered what is to them an asylum, and consequently, if after their visit to neutral territory they were allowed to re-enter hostilities, they would be making use of neutral territory to the detriment of their adversary.

From this principle arises a duty, which is incumbent on all neutral States, to do what they can to prevent combatant forces from entering their jurisdiction, and to intern those which do. These principles are recognised and adopted for aerial warfare by article 42. The obligation to intern covers also aircraft which were within the neutral jurisdiction at the outbreak of hostilities.

Where aircraft and their personnel are in distress and seek shelter in neutral territory, knowing that their fate will be internment, or where the entry is due to the fact that the aircraft has lost its bearings or experienced engine trouble or run out of fuel, the neutral State is under no obligation to exclude them; it is, in fact, morally bound to admit them. This is due to the principle that those who are in distress must be succoured. The prohibition in the article is aimed at those who enter in violation of the rights of the neutral State.

The prohibition on entry into neutral jurisdiction leads naturally to the further obligation incumbent upon neutral States to enforce compliance with the rule. It is beyond the power of any neutral State to ensure that no belligerent military aircraft will ever violate its neutrality; its obligation is limited to the employment of the means at its disposal, conforming in this respect to the phraseology employed in the Convention dealing with the Rights and Duties of Neutral Powers in Maritime War (No. XIII of 1907).

The provision in the article is limited to military aircraft because it is only in respect of such craft that the prohibition on entry is absolute. Under article 12 the admission of private or public non-military aircraft is within the discretion of the neutral State. Where such aircraft penetrate within neutral jurisdiction in violation of the measures prescribed by the neutral Power, they will be subject to such penalties as the neutral Power may enact; these may or may not include internment. Recognition of this fact has enabled the Commission to omit a provision which figured as article 11 in the American draft:

A neutral Government may intern any aircraft of belligerent nationality not conforming to its regulations.

The obligation on the part of the neutral Power to intern covers not only the aircraft, but its equipment and contents. The obligation is not affected by the circumstance which led to the military aircraft coming within the jurisdiction. It applies whether the belligerent aircraft entered neutral jurisdiction, voluntarily or involuntarily, and whatever the cause. It is an obligation owed to the opposing belligerent and is based upon the fact that the aircraft has come into an area where it is not subject to attack by its opponent.

The only exceptions to the obligation to intern an aircraft are those arising under articles 17 and 41. The first relates to flying ambulances. Under the second, an aircraft on board a warship is deemed to be part of her, and therefore will follow the fate of that warship if she enters neutral ports or waters. If she enters under circumstances which render her immune from internment, such aircraft will likewise escape internment.

The obligation to intern belligerent military aircraft entering neutral jurisdiction entails also the obligation to intern the personnel. These will in general be combatant members of the belligerent fighting forces, but experience has already shown that in time of war military aeroplanes are employed for transporting passengers. As it may safely be assumed that in time of war a passenger would not be carried on a belligerent military aircraft unless his journey was a matter of importance to the Government, it seems reasonable also to comprise such passengers in the category of persons to be interned.

Article 42

A neutral Government must use the means at its disposal to prevent the entry within its jurisdiction of belligerent military aircraft and to compel them to alight if they have entered such jurisdiction.

A neutral Government shall use the means at its disposal to intern any belligerent military aircraft which is within its jurisdiction after having alighted for any reason whatsoever, together with its crew and the passengers, if any.

Under article 15 of the Convention for the adaptation of the principles of the Geneva Convention to Maritime War (No. X of 1907), the shipwrecked, wounded or sick members of the crew of a belligerent warship, who are brought into a neutral port, must be interned. The same rule is applied by article 43 to the personnel of a disabled belligerent military aircraft, when the men are brought in on board a military aircraft. It goes without saying that such individuals could not be brought in and landed at a neutral port without the consent of the neutral authorities.

ARTICLE 43

The personnel of a disabled belligerent military aircraft rescued outside neutral waters and brought into the jurisdiction of a neutral State by a neutral military aircraft and there landed shall be interned.

The principle is well established in international law that in time of war a Government, which remains neutral, must not itself supply to a belligerent Government arms or war material. For aerial warfare effect is given to this principle by the following article:

ARTICLE 44

The supply in any manner, directly or indirectly, by a neutral Government to a belligerent Power of aircraft, parts of aircraft, or material, supplies or munitions required for aircraft is forbidden.

No obligation rests on a neutral State to prevent the purchase by a belligerent Government of articles of contraband from persons within the neutral jurisdiction. The purchase of contraband under such conditions constitutes a commercial transaction which the neutral Government is under no obligation to prevent, although the opposing belligerent may take such means as international law authorises to intercept the delivery of the articles to his enemy. This principle has already been embodied in article 7 of the Convention concerning the rights and duties of neutral Powers in land war (Convention V of 1907) and in article 7 of the corresponding convention for maritime war (Convention XIII of 1907). To apply it to aerial warfare, the following article has been adopted:

ARTICLE 45

Subject to the provisions of article 46, a neutral Power is not bound to prevent the export or transit on behalf of a belligerent of aircraft, parts of aircraft, or material, supplies or munitions for aircraft.

An exception to the principle that a neutral State is under no obligation to prevent the export of arms and war material, is found in the accepted rule of international law that neutral territory must not be utilised as a base of operations by a belligerent Government, and that the neutral State must therefore prevent the fitting out or

departure from its jurisdiction of any hostile expedition intended to operate on behalf of one belligerent against the other. Such an expedition might consist of a single aeroplane, if manned and equipped in a manner which would enable it to take part in hostilities, or carrying or accompanied by the necessary elements of such equipment. Consequently, its departure under circumstances which would constitute the despatch of a hostile expedition, must be prevented by the neutral Government.

It is easy to see that it is aircraft which have flown out of the neutral jurisdiction, which are most likely to engage in hostilities in some form before delivery to the belligerent purchaser in the belligerent State, and it is in these cases that the neutral Government must take special precautions. All risk will be avoided if the aircraft, despatched to the order of a belligerent Power, does not come within the neighbourhood of the operations of the opposing belligerent. The neutral State should therefore prescribe the route which the aircraft is to follow. This alone, however, will not be sufficient. The aircraft might ignore the instructions it receives. Guarantees for compliance must therefore be exacted. It will be for the neutral State to determine the guarantees which it thinks necessary, but they must be effective guarantees, such, for instance, as insisting on the aircraft carrying a representative of the Government to see that the route indicated is followed.

To meet these requirements, the following article has been adopted:

ARTICLE 46

A neutral Government is bound to use the means at its disposal:

1. To prevent the departure from its jurisdiction of an aircraft in a condition to make a hostile attack against a belligerent Power, or carrying or accompanied by appliances or materials the mounting or utilisation of which would enable it to make a hostile attack, if there is reason to believe that such aircraft is destined for use against a belligerent Power.
2. To prevent the departure of an aircraft the crew of which includes any member of the combatant forces of a belligerent Power.
3. To prevent work upon an aircraft designed to prepare it to depart in contravention of the purposes of this article.

On the departure by air of any aircraft despatched by persons or companies in neutral jurisdiction to the order of a belligerent Power, the neutral Government must prescribe for such aircraft a route avoiding the neighbourhood of the military operations of the opposing belligerent, and must exact whatever guarantees may be required to ensure that the aircraft follows the route prescribed.

The height to which aircraft can ascend would enable them to be used for observation purposes from a spot within neutral jurisdiction, i. e., within the airspace above neutral territory or territorial waters, if hostilities were in progress close to the frontier between

two States. Such proceedings might be extremely harmful to belligerent interests, and if the observations were made on behalf of one of the belligerents and for the purpose of supplying him with information, would amount to an improper use of neutral territory. To meet this contingency, the following provision has been adopted:

ARTICLE 47

A neutral State is bound to take such steps as the means at its disposal permit to prevent within its jurisdiction aerial observation of the movements, operations or defences of one belligerent, with the intention of informing the other belligerent.

The prohibition of aerial observation within neutral territory on belligerent account must apply equally to the case of aircraft on board belligerent warships when in neutral waters. To avoid all misconception on this point, the following paragraph has been added:

This provision applies equally to a belligerent military aircraft on board a vessel of war.

The measures which a neutral Government may be obliged to take to compel respect for its rights may entail the use of force; fire may have to be opened on foreign aircraft, even military aircraft of another State. Following the analogy of article 10 of Convention V of 1907 (Rights and Duties of Neutral Powers in Land War) and article 26 of Convention XIII (Rights and Duties of Neutral Powers in Maritime War), it has been thought well to declare that the measures, even of force, taken by a neutral Power for this purpose cannot be regarded as acts of war. Still less could they be regarded as unfriendly acts, seeing that they are taken in specific exercise of rights conferred or recognised by treaty.

It may be well to add that the neutral Government will not be responsible for any injury or damage done to the aircraft or other object.

ARTICLE 48

The action of a neutral Power in using force or other means at its disposal in the exercise of its rights or duties under these rules cannot be regarded as a hostile act.

CHAPTER VII. VISIT AND SEARCH, CAPTURE AND CONDEMNATION

Both the American and British drafts when first submitted to the Commission provided for the use of aircraft in exercising against enemy commerce the belligerent rights which international law has sanctioned. This principle has not met with unanimous acceptance; the Netherlands Delegation has not felt able to accept it. The stand-

point adopted by this Delegation is that the custom and practice of international law is limited to a right on the part of belligerent warships to capture after certain formalities merchant vessels employed in the carriage of such commerce. No justification exists for the extension of those rights to an aircraft, which is a new engine of war entirely different in character from a warship and unable to exercise over merchant vessels or private aircraft a control similar to that exercised by a warship over merchant vessels. Consequently there is no reason to confer on a military aircraft the right to make captures as if it were a warship, and no reason to subject commerce to capture when carried in an aircraft. In developing international law the tendency should be in the direction of conferring greater, not less, immunity on private property.

For these reasons the Netherlands Delegation has not accepted the rules contained in Chapter VII and its participation in the discussion of individual rules has been subject to the general reserves made with regard to the whole chapter.

The majority of the delegations have not felt able to reject the principle that the aircraft should be allowed to exercise the belligerent right to visit and search, followed by capture where necessary for the repression of enemy commerce carried in an aircraft in cases where such action is permissible. This principle is embodied in article 49, of which the text is as follows:

ARTICLE 49

Private aircraft are liable to visit and search and to capture by belligerent military aircraft.

No article on the subject of the exercise by belligerent military aircraft of the right of visit and search of merchant vessels has secured the votes of a majority of the Delegations, and therefore no article on the subject is included in the code of rules. Nevertheless, all the Delegations are impressed with the necessity of surrounding with proper safeguards the use of aircraft against merchant vessels. Otherwise excesses analogous to those which took place during the recent war might be reproduced in future wars.

The reason why no agreed text has been adopted by the Commission is due to divergence of view as to what action an aircraft should be permitted to take against a merchant vessel.

The aircraft in use to-day are light and fragile things. Except in favourable circumstances they would not be able to alight on the water and send a man on board a merchant vessel at the spot where the merchant vessel is first encountered (*visite sur place*). To make the right of visit and search by an aircraft effective it would usually

be necessary to direct the merchant vessel to come to some convenient locality where the aircraft can alight and send men on board for the purpose. This would imply a right on the part of the belligerent military aircraft to compel the merchant vessel to deviate from her course before it was in possession of any proofs derived from an examination of the ship herself and her papers that there were circumstances of suspicion which justified such interference with neutral trade. If the deviation which the merchant vessel was obliged to make was prolonged, as might be the case if the aircraft was operating far from land, the losses and inconvenience imposed on neutral shipping would be very heavy.

Is or is not a warship entitled to oblige a merchant vessel to deviate from her course for the purpose of enabling the right of visit and search to be carried out? Would an aircraft be exercising its rights in conformity with the rules to which surface warships are subject if it obliged a merchant vessel to deviate from her course in this way? Even if a warship is entitled on occasion to oblige a merchant vessel to deviate from her course before visiting her, can a similar right be recognised for military aircraft without opening the door to very great abuses?

These are the questions upon which the views entertained by the Delegations differed appreciably, and indicate the reasons why it was not found possible to devise any text on which all parties could agree.

The French Delegation declared that aircraft must conform to the rules to which surface warships are subject.

The French Delegation proposed the following text:

> Aircraft are forbidden to operate against merchant vessels, whether surface or submarine, without conforming to the rules to which surface warships are subject.

In view of the differences of opinion manifested in regard to the above questions, the Delegation regarded this formula as the only one which was likely to receive the support of a majority of the Commission.

The American Delegation considered that a merchant vessel should be boarded when she is encountered, but maintained that, even if a departure from this rule might in exceptional circumstances be permitted in visit and search by surface ships, a similar concession to aircraft, with their limited means of boarding, would readily have the effect of converting the exception into the rule. They stated that they were not advised of anything in the record of the Washington Conference showing an intention to authorise surface ships or submarines to divert merchant vessels, without boarding them, to a port for examination; but that, were the case otherwise, the Washington Conference had decided that the subject of aircraft, which presented difficulties of its own and which might involve

questions different from those pertaining even to submarines, should be dealt with separately; and that to permit aircraft, with their rapidity and range of flight, to control and direct by orders enforceable by bombing, and without visit and search, the movement of merchant vessels on the high seas would, in their opinion, give rise to an inadmissible situation.

The American Delegation, therefore, proposed the following text:

Aircraft are forbidden to visit and search surface or subsurface vessels without conforming in all respects to the rules to which surface vessels authorized to conduct visit and search are subject.

In view of the irregularities to which the use of aircraft against merchant vessels might give rise, it is declared that aircraft cannot divert a merchant vessel from its course without first boarding it; that in no event may an aircraft destroy a merchant vessel unless the crew and passengers of such vessel have first been placed in safety; and that if an aircraft cannot capture a merchant vessel in conformity with these rules it must desist from attack and from seizure and permit such vessel to proceed unmolested.

The British Delegation maintained that the problem connected with visit and search of merchant vessels by aircraft was analogous to that of the exercise of such right by submarines, and that the most satisfactory solution of the problem would be to apply *mutatis mutandis* the wording of article 1 of the Treaty signed at Washington on the 6th February, 1922, for the protection of the lives of neutrals and non-combatants at sea in time of war.

This Delegation maintained that by using the language of that treaty, as proposed, the question of the right to oblige a merchant vessel to deviate to a reasonable extent would be solved because the wording adopted at Washington had been modified so as to admit this right. The British Delegates proposed the following text:

The use of aircraft against merchant vessels must be regulated by the following provisions, which, being in conformity with the rules adopted by civilised nations for the protection of the lives of neutrals and non-combatants at sea in time of war, are to be deemed an established part of international law:—

A merchant vessel must be ordered to submit to visit and search to determine its character before it can be seized.

A merchant vessel must not be attacked unless it refuses to submit to visit and search after warning or to proceed as directed after seizure.

A merchant vessel must not be destroyed unless the crew and passengers have first been placed in safety.

Belligerent aircraft are not under any circumstances exempt from the universal rules above stated; and if an aircraft cannot capture a merchant vessel in conformity with these rules, the existing law of nations requires it to desist from attack and from seizure and to permit the merchant vessel to proceed unmolested.

The Japanese view was based on the practical difficulty in the way of exercise of the right of visit and search by aircraft. Visit and search is a necessary preliminary to capture, and unless an aircraft

is physically capable of carrying it out, the recognition of the right of military aircraft to conduct operations against merchant vessels may lead to a recurrence of the excesses practised against enemy and neutral merchant vessels in the submarine campaign initiated during the recent war. Therefore, the Japanese Delegation preferred not to recognise the right at all. But, in the end, as the amended American text [24] removed the greater part of their fear of possible abuse, they expressed readiness to accept it, and suggested at the same time that the text had better be completed by the addition of the last sentence of the British text.

The Italian Delegation accepted the British point of view; it maintained that diversion of merchant vessels by surface warships was recognised and that the wording of the Washington Treaty should be repeated. To prevent any abusive exercise of the right by aircraft, the Italian Delegation proposed to add the following sentences to the paragraphs of the Washington Treaty as set out in the British text:

After the first paragraph add—

Visit must in general be carried out where the merchant vessel is first encountered. Nevertheless, in cases where it may be impossible to alight and there is at the same time good ground for suspicion, the aircraft may order the merchant vessel to deviate to a suitable locality, reasonably accessible, where she may be visited. If no good cause for this action is shown, the belligerent State must pay compensation for the loss caused by the order to deviate.

After the third paragraph add—

If the merchant vessel is in the territorial waters of the enemy State and not on the high seas, she may be destroyed after previous notice has been given to the persons on board to put themselves in a place of safety and reasonable time has been given them for so doing.

The Italian Delegation also intimated that for the sake of arriving at an agreement, it would vote in favour of the French text given above. In accepting it, however, it declared: (1) that in the existing practice of maritime war the majority of European Powers admitted that, if visit on the spot where the merchant vessel was encountered was impossible, surface warships are entitled to oblige merchant vessels to deviate to a suitable spot where the visit can take place; (2) that, even if it is not desired to rest on the maritime practice indicated above, the Italian Delegation must maintain the right of belligerent aircraft to exercise the right of visit in accordance with the texts of the amendments proposed.

The Netherlands Delegation accepted the American proposal as the one which limited most narrowly the exercise of belligerent rights by aircraft.

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[24] See Minute 105.

When put to the vote the American proposal was supported by the Japanese and Netherlands Delegations and opposed by the British, French and Italian. The French proposal was opposed by the American, British, Japanese and Netherlands Delegations. The British and Italian Delegations explained that they could only support it if it was amplified in the way indicated in the British and Italian amendments.

Although all the Delegations concurred in the expression of a desire to adopt such rules as would assure the observance of the dictates of humanity as regards the protection of the lives of neutrals and non-combatants, the Commission, by reason of a divergence of views as to the method by which this result would best be attained, was unable to agree upon an article dealing with the exercise of belligerent rights by aircraft against merchant vessels. The code of rules proposed by the Commission therefore leaves the matter open for future regulation.

While aircraft are in flight in the air, the operation of visit and search cannot be effected so long as aircraft retain their present form. Article 49 therefore necessitates the recognition of a right on the part of belligerent military aircraft to order non-military aircraft to alight in order that the right of visit and search may be exercised. They must not only be ordered to alight, but they must be allowed to proceed to a suitable locality for the purpose. It would be a hardship to the neutral if he was obliged to make a long journey for this purpose and the locality must, therefore, not only be suitable, but must be reasonably accessible—that is, reasonably convenient of access. A more precise definition than this can scarcely be given; what is reasonably convenient of access is a question of fact to be determined in each case in the light of the special circumstances which may be present. If no place can be found which is reasonably convenient of access, the aircraft should be allowed to continue its flight.

As is the case with merchant vessels, a refusal to comply with such belligerent directions will expose the aircraft to the use of force for the purpose of insisting on compliance. Just as the belligerent right has received universal acceptance in maritime war, so is the principle admitted that the neutral vessel is under a duty to submit to it and if in consequence of her failure to do so she is damaged or sunk, she has no right to complain, seeing that she has failed to comply with an obligation imposed upon her by the law of nations. This principle does not, however, entitle a belligerent to apply force unnecessarily. His measures of coercion must be limited to what is reasonably required to secure the fulfilment of his object.

It is for this reason that a warship always fires a shot across the bow of a vessel before attempting to hit the vessel herself, and, even

when obliged to fire at the vessel herself, must still take all measures within her power to rescue the crew and passengers. Recognition of a similar right on the part of aircraft to apply force must be conditioned by the obligation on the part of the aircraft not to apply force to a greater extent than is necessary. It would be so easy for the aircraft to take measures which might at once entail the destruction of the aircraft and the loss of life of everybody therein that it is essential to recognise the principle that force must only be employed to the extent which is reasonably necessary.

ARTICLE 50

Belligerent military aircraft have the right to order public non-military and private aircraft to alight in or proceed for visit and search to a suitable locality reasonably accessible.

Refusal, after warning, to obey such orders to alight or to proceed to such a locality for examination exposes an aircraft to the risk of being fired upon.

The next article deals with the position of a neutral public non-military aircraft. The future of commercial aviation may involve the establishment of State-owned lines of aircraft for commercial purposes. The principle has already been recognised that such aircraft must be treated upon the same footing as private aircraft. Their subjection to the exercise of the right of visit and search and capture must, therefore, be assured. Where public non-military aircraft are not used for commercial purposes, the general rule must apply according to which a belligerent warship can only visit the public vessels of a friendly Power so far as may be necessary for the purpose of ascertaining their character, *i. e.*, by the verification of their papers.

ARTICLE 51

Neutral public non-military aircraft, other than those which are to be treated as private aircraft, are subject only to visit for the purpose of the verification of their papers.

Article 52 applies to aircraft in time of war the principle which already obtains in the case of merchant vessels, namely, that an enemy merchant vessel is liable to capture in all circumstances.

ARTICLE 52

Enemy private aircraft are liable to capture in all circumstances.

The next article deals with the grounds upon which a neutral private aircraft may be captured.

(*a*) The first is where it resists the legitimate exercise of belligerent rights. This is in harmony with article 63 of the Declaration of London. As first submitted to the Commission, the text included

the words "or flees." On due consideration, however, these words were omitted. The reasons for this omission cannot be stated better than is done in the report on article 63 of the Declaration of London, prepared by M. Renault:

> If the vessel is stopped, and it is shown that it was only in order to escape the inconvenience of being searched that recourse was had to flight, and that beyond this she had done nothing contrary to neutrality, she will not be punished for her attempt at flight. If, on the other hand, it is established that the vessel has contraband on board, or that she has in some way or other failed to comply with her duty as a neutral, she will suffer the consequences of her infraction of neutrality, but in this case, as in the last, she will not undergo any punishment for her attempt at flight. Expression was given to the contrary view, namely, that a ship should be punished for an obvious attempt at flight as much as for forcible resistance. It was suggested that the prospect of having the escaping vessel condemned as good prize would influence the captain of the cruiser to do his best to spare her. But in the end this view did not prevail.

(*b*) The second ground for capture is that of the failure of a neutral aircraft to comply with directions given by a belligerent commanding officer enjoining the withdrawal of neutral aircraft from the immediate vicinity of his military operations. By the terms of article 30, a neutral aircraft disregarding such a prohibition is exposed to the risk of being fired upon. It might well be thought that such risk would involve a sufficient deterrent without rendering non-compliance a ground of capture. The reason why capture has been added is due to the peculiar circumstances of warfare in the air. The right to oblige aircraft to avoid the scene of military operations would only be made use of in cases where it was a matter of importance to the belligerent to ensure their absence, and consequently where effective measures must be taken to secure compliance. If a neutral private aircraft is to be fired upon for this purpose, it is desirable to render it as little likely as possible that it shall be fired upon in a way that will involve its destruction. If the airman knows that the aircraft, when forced to alight, may be made the subject of capture, he is less tempted to secure observance of the rule by firing in a way which will involve the destruction of the aircraft.

(*c*) The third ground for capture is where the aircraft is engaged in unneutral service. This phrase "unneutral service" formed the subject of careful consideration in the Naval Conference of London in 1908 and 1909, at the time when the Declaration of London was framed. The meaning attached to the term by the Commission in the preparation of the present text is that used in articles 45 and 46 of that Declaration, the intention being to render those articles applicable in the case of similar action on the part of aircraft. For instance, it will cover an act amounting to taking

a direct part in hostilities, such as that mentioned in the second paragraph of article 16. The Commission would also refer to that portion of the Report on the Declaration of London which deals with unneutral service (articles 45 and 46) as they are in entire concurrence with it.

(*d*) The fourth ground for capture is that a neutral private aircraft is armed in violation of article 16, which stipulates that outside its own jurisdiction a private aircraft must not be armed. The carriage of arms by a private aircraft under such circumstances gives rise to a well-founded suspicion of an intention to take part in hostilities in violation of the laws of war.

(*e*) The fifth ground for capture is that an aircraft has no marks or is bearing false marks in violation of article 19.

(*f*) The sixth ground for capture is the absence or irregularity of the papers of the aircraft. This rule is in accordance with that which prevails in maritime warfare. The papers which must be carried are indicated with greater precision in article 54.

(*g*) The seventh ground for capture is that of an aircraft being found manifestly out of the proper line of its flight as indicated by its papers and where no sufficient reason is found for its presence in that locality. The importance of this rule from the point of view of aerial warfare is due to the ease with which aircraft can be used for reconnaisance work, even though they may be masquerading as neutral aircraft engaged on innocent occupations. It may well be that in any particular case the aircraft will be able to establish the innocence of its presence. It may have been blown out of its course; it may have been compelled to make a deviation to secure supplies; it may even have intentionally deviated for the purpose of avoiding an area in which it considered that military operations were possible. It is therefore to the interests of both parties—the belligerent and the neutral—that ample opportunity for enquiry should be given to the belligerent before exercising his right of capture. It will only be where the results of such investigations show that there is good cause for suspicion that the aircraft was engaged in some improper operations that capture will be resorted to.

(*h*) The eighth ground for capture is where the neutral private aircraft carries, or itself constitutes, contraband of war. This subhead is framed upon the basis that the term "contraband of war" will bear the same meaning as it has in maritime warfare.

(*i*) The ninth ground for capture is that the aircraft is engaged in a breach of blockade. "Blockade" is here used in the same sense in which it is employed in Chapter 1 of the Declaration of London, that is to say, an operation of war for the purpose of preventing by the use of warships ingress or egress of commerce to or from a defined portion of the enemy's coast. It has no reference to a blockade

enforced without the use of warships, nor does it cover military investments of particular localities on land. These operations, which may be termed "aerial blockade," were the subject of special examination by the experts attached to the various Delegations, who framed a special report on the subject for consideration by the Full Commission. The conditions contemplated in this sub-head are those of warships enforcing a blockade at sea with aircraft acting in co-operation with them. As the primary elements of the blockade will, therefore, be maritime, the recognised principles applicable to such blockade, as for instance, that it must be effective (Declaration of Paris, article 4), and that it must be duly notified and its precise limits fixed, will also apply. This is intended to be shown by the use of the words "breach of blockade duly established and effectively maintained" in the text of the sub-head.

It is too early yet to indicate with precision the extent to which the co-operation of aircraft in the maintenance of blockade at sea may be possible; experience alone can show. Nevertheless, it is necessary to indicate the sense in which the Commission has used the word "effective." As pointed out in the Declaration of London, the effectiveness of a blockade is a question of fact. The word "effective" is intended to ensure that it must be maintained by a force sufficient really to prevent access to the enemy coast-line. The prize court may, for instance, have to consider what proportion of surface vessels can escape the watchfulness of the blockading squadrons without endangering the effectiveness of the blockade; this is a question which the prize court alone can determine. In the same way, this question may have to be considered where aircraft are co-operating in the maintenance of a blockade.

The invention of the aircraft cannot impose upon a belligerent who desires to institute a blockade the obligation to employ aircraft in co-operation with his naval forces. If he does not do so, the effectiveness of the blockade would not be affected by failure to stop aircraft passing through. It is only where the belligerent endeavours to render his blockade effective in the air-space above the sea as well as on the surface itself that captures of aircraft will be made and that any question of the effectiveness of the blockade in the air could arise.

The facility with which an aircraft, desirous of entering the blockaded area, could evade the blockade by passing outside the geographical limits of the blockade has not escaped the attention of the Commission. This practical question may affect the extent to which belligerents will resort to blockade in future, but it does not affect the fact that where a blockade has been established and an aircraft attempts to pass through into the blockaded area within the limits of the blockade, it should be liable to capture.

The Netherlands Delegation proposed to suppress (*i*) on the grounds that air blockade could not be effectively maintained, basing its opinion on its interpretation of the experts' report on the subject.

The British, French, Italian and Japanese Delegations voted for its maintenance. The American Delegation voted for its maintenance *ad referendum.*

(*k*) The tenth ground for capture is that the private aircraft has been transferred from belligerent to neutral nationality with a view to escaping the disadvantages which enemy status confers upon aircraft. This sub-head has been inserted in order that so far as possible the rules applicable to maritime warfare should apply to warfare in the air.

The sub-head as adopted does not embody the detailed provisions of the Declaration of London (articles 55 and 56) because those articles constituted a compromise between two competing principles and have not stood the test of experience.

The sub-heads enumerated above comprise those which the Commission has considered sufficient to justify capture. Experience may show that other cases will arise in which capture may be necessary, as great development may yet occur in the science of aviation.

The article concludes with a proviso that the act which constitutes the ground of capture must have occurred in the course of the flight in which the neutral aircraft came into belligerent hands. This proviso would not, of course, apply to the case of transfer from belligerent to neutral nationality.

Account must also be taken of the special case provided for in article 6 of the rules for the control of radio in time of war under which merchant vessels or aircraft transmitting intelligence may in certain circumstances be liable to capture for a period of one year from the commission of the act complained of.

ARTICLE 53

A neutral private aircraft is liable to capture if it—

(*a*) Resists the legitimate exercise of belligerent rights.

(*b*) Violates a prohibition of which it has had notice issued by a belligerent commanding officer under article 30.

(*c*) Is engaged in unneutral service.

(*d*) Is armed in time of war when outside the jurisdiction of its own country.

(*e*) Has no external marks or uses false marks.

(*f*) Has no papers or insufficient or irregular papers.

(*g*) Is manifestly out of the line between the point of departure and the point of destination indicated in its papers and after such enquiries as the belligerent may deem necessary, no good cause is shown for the deviation. The aircraft, together with its crew and pas-

sengers, if any, may be detained by the belligerent, pending such enquiries.

(*h*) Carries, or itself constitutes, contraband of war.

(*i*) Is engaged in breach of a blockade duly established and effectively maintained.

(*k*) Has been transferred from belligerent to neutral nationality at a date and in circumstances indicating an intention of evading the consequences to which an enemy aircraft, as such, is exposed.

Provided that in each case (except (*k*)) the ground for capture shall be an act carried out in the flight in which the neutral aircraft came into belligerent hands, i. e., since it left its point of departure and before it reached its point of destination.

By custom and tradition practical uniformity has arisen as to the papers which a merchant vessel is expected to carry. There is no serious divergence between the legislation now in force in civilised countries. No practical inconvenience, therefore, arises in the application of the established rule of maritime war, that a vessel is liable to capture if it has no papers or if the papers are irregular. Similar uniformity would no doubt in time arise in connection with aircraft, particularly if the Air Navigation Convention of 1919 becomes universal. It has, however, been thought prudent to indicate in a special article the facts which the papers found on board an aircraft must indicate if its papers are to be held sufficient. Under article 6 the papers to be borne by an aircraft are those prescribed by the laws of its own State. The forms, names and number of such papers are therefore a matter to be determined by each State except so far as it may already be bound by treaty stipulations. Article 54 prescribes the points that must be established by such papers, that is to say, it ensures that the papers shall give the belligerent information on the points which it is important for him to know. They must show the nationality of the aircraft, the names and nationality of the crew and the passengers, the points of departure and destination of the flight, particulars of the cargo, and must include the necessary logs. The legislation in force in each State must be sufficient to satisfy this rule if it desires that its aircraft shall escape trouble in time of war. It is not thought that this article will involve any inconvenience, as legislation which would not prescribe at least as much as the above on the subject of aircraft is unlikely to be enacted by any State.

ARTICLE 54

The papers of a private aircraft will be regarded as insufficient or irregular if they do not establish the nationality of the aircraft and indicate the names and nationality of the crew and passengers, the points of departure and destination of the flight, together with particulars of the cargo and the conditions under which it is transported. The logs must also be included.

The practice has now become universal for belligerent States to institute a prize court in which proceedings will take place for adjudicating on all cases of capture of ships or goods effected in maritime war. It is in the interest of neutrals that this system has been developed. If aircraft are to be allowed to exercise the belligerent right of capture, it is only proper that the same protection should be accorded to neutrals as in the case of captures effected by warships. This view has readily obtained unanimous assent, and is embodied in article 55.

ARTICLE 55

Capture of an aircraft or of goods on board an aircraft shall be made the subject of prize proceedings, in order that any neutral claim may be duly heard and determined.

The provisions of articles 52 and 53 deal only with the grounds for capture. They do not prescribe the rule which is to be applied by the prize court. Reflection has led the Commission to the view that, save in certain exceptional cases where aircraft will have been captured for reasons peculiar to aerial warfare, the decisions of the prize courts in adjudicating on captures effected by aircraft, should proceed on the same principles as those which obtain in captures by warships. If the jurisdiction of the prize courts is to apply in aerial warfare as well as in maritime warfare, it is convenient that the rules applied should be the same in both cases. It would be impossible to frame an exact code, at the present stage, of the rules which prize courts apply, nor indeed would it be within the competence of this Commission to do so as far as concerns maritime warfare. It would certainly lead to divergence between rules applied in the case of aerial captures and those applied in the case of maritime captures. The simplest solution has therefore been found in the adoption of the principle that the prize court should apply the same rules in both cases.

The special cases which have to be provided for are those where an aircraft has no marks or has used false marks, or has been found armed in time of war outside the jurisdiction of its own country, and also in the case where a neutral aircraft has violated the rule that it must not infringe the directions of the belligerent commanding officer to keep away from the immediate vicinity of his military operations. In these cases it is agreed that the aircraft should be liable to condemnation.

ARTICLE 56

A private aircraft captured upon the ground that it has no external marks or is using false marks, or that it is armed in time of war outside the jurisdiction of its own country, is liable to condemnation.

A neutral private aircraft captured upon the ground that it has disregarded the direction of a belligerent commanding officer under article 30 is liable to condemnation, unless it can justify its presence within the prohibited zone.

In all other cases, the prize court in adjudicating upon any case of capture of an aircraft or its cargo, or of postal correspondence on board an aircraft, shall apply the same rules as would be applied to a merchant vessel or its cargo or to postal correspondence on board a merchant vessel.

The destruction of neutral merchant vessels first came into prominence as a belligerent practice at the time of the Russo-Japanese War. It was not without difficulty that an agreement was reached between the Powers as to the extent to which the practice should be recognised in maritime war. In the case of enemy vessels, the practice has always been recognised as legitimate, subject to the overriding principle that the persons on board must be placed in safety and the papers of the vessel must be secured. This principle has been adapted to aerial warfare by article 57, of which the text is as follows:

ARTICLE 57

Private aircraft which are found upon visit and search to be enemy aircraft may be destroyed if the belligerent commanding officer finds it necessary to do so, provided that all persons on board have first been placed in safety and all the papers of the aircraft have been preserved.

The articles dealing with the destruction of neutral aircraft are largely based upon the provisions of the Declaration of London, but the language used is of a more restrictive character, so as to reduce the possibilities of an abuse of the practice, as happened in the late war. Destruction is limited to cases where an aircraft is captured in circumstances which show that it would be liable to condemnation on the ground of unneutral service, or on the ground that it has no marks or bears false marks. Apart from these cases, destruction can only be justified by the existence of grave military emergencies which would not justify the officer in command in releasing the aircraft. In all cases, destruction must be justified by the circumstance that sending the aircraft in for adjudication would be impossible, or would imperil the safety of the belligerent aircraft or the success of the operations in which it is engaged.

ARTICLE 58

Private aircraft which are found upon visit and search to be neutral aircraft liable to condemnation upon the ground of unneutral service, or upon the ground that they have no external marks or are bearing false marks, may be destroyed, if sending them in for adjudication would be impossible or would imperil the safety of the belligerent aircraft or the success of the operations in which it is engaged. Apart from the cases mentioned above, a neutral private aircraft must not be destroyed except in the gravest military emergency, which would not justify the officer in command in releasing it or sending it in for adjudication.

The safeguards designed to ensure full protection for neutral interests in the case of any such destruction are embodied in article 59. The persons on board must be placed in safety. The papers must be secured in order that they may be available in the forthcoming prize court proceedings. The captor must then bring the case before the prize court and must establish, firstly, the need for destruction, and, secondly, when that is established, the validity of the capture. Failure to establish the first point will expose him to the risk of paying compensation to all the parties interested in the aircraft and its cargo. Failure to establish the second will place him in the same position in which he would be if the aircraft had not been destroyed, and he had been ordered to make restitution of the aircraft or cargo improperly captured.

ARTICLE 59

Before a neutral private aircraft is destroyed, all persons on board must be placed in safety, and all the papers of the aircraft must be preserved.

A captor who has destroyed a neutral private aircraft must bring the capture before the prize court, and must first establish that he was justified in destroying it under article 58. If he fails to do this, parties interested in the aircraft or its cargo are entitled to compensation. If the capture is held to be invalid, though the act of destruction is held to have been justifiable, compensation must be paid to the parties interested in place of the restitution to which they would have been entitled.

The special case of the destruction of contraband on board an aircraft, apart from the destruction of the aircraft itself, is dealt with in article 60, which proceeds on lines similar to article 54 of the Declaration of London. After the contraband has been destroyed, the aircraft will be allowed to continue its flight. Similar provision is made for the protection of neutral interests as under the preceding articles.

The article as adopted is limited to absolute contraband, but three Delegations considered that the word "absolute" should be deleted, and that the article should extend to all forms of contraband, as in article 54 of the Declaration of London.

ARTICLE 60

Where a neutral private aircraft is captured on the ground that it is carrying contraband, the captor may demand the surrender of any absolute contraband on board, or may proceed to the destruction of such absolute contraband, if sending in the aircraft for adjudication is impossible or would imperil the safety of the belligerent aircraft or the success of the operations in which it is engaged. After entering in the log book of the aircraft the delivery or destruction of the goods, and securing, in original or copy, the relevant papers of the aircraft, the captor must allow the neutral aircraft to continue its flight.

The provisions of the second paragraph of Article 59 will apply where absolute contraband on board a neutral private aircraft is handed over or destroyed.

Chapter VIII. Definitions

In some countries, the word "military" is not generally employed in a sense which includes "naval." To remove any ambiguity on this point a special article has been adopted.

Article 61

The term "military" throughout these rules is to be read as referring to all branches of the forces, i. e., the land forces, the naval forces and the air forces.

Article 62 is intended to remove all risk of doubt as to whether aircraft personnel should, in matters not covered by these rules or by conventions as to the application of which there can be no doubt, be governed by the Land Warfare Regulations or by the unwritten rules governing maritime war. The rules to be applied are those contained in the Land Warfare Regulations. Regard must be had to the last paragraphs of the Convention to which the Land Warfare Regulations are attached, that cases not provided for are not intended, for want of a written prohibition, to be left to the arbitrary judgment of military commanders. In all such cases the population and belligerents are to remain under the protection of the rule of the principles of the law of nations, as they result from the usages established between civilised nations, from the laws of humanity and the requirements of the public conscience.

The French Delegation expressed the opinion that the terms of article 62 were hardly adequate to cover a subject so complex.

Article 62

Except so far as special rules are here laid down and except also so far as the provisions of Chapter VII of these Rules or international conventions indicate that maritime law and procedure are applicable, aircraft personnel engaged in hostilities come under the laws of war and neutrality applicable to land troops in virtue of the custom and practice of international law and of the various declarations and conventions to which the States concerned are parties.

JURISDICTION

The British draft code contained an article (No. 9) stipulating that for the purpose of the proposed rules, territory over which a Power exercises a protectorate or a mandate, and also protected States, should be assimilated to the national territory of that Power. The Japanese Delegation drew attention to the necessity of providing also for the case of leased territories if any such article were adopted. Throughout the articles adopted the word "jurisdiction" is used. The Commission has considered the question whether it is necessary to add a definition of the word "jurisdiction," and has come to the conclusion that it would be better not to do so. The area within which each State is responsible is well understood; no difficulty of

this sort arises in practice; and no inconvenience has been caused by the absence of any such definition from Convention No. XIII, of 1907, in which the word "jurisdiction" is used in a manner very similar to that in which it is used in the present rules.

MARGINAL TERRITORIAL AIR BELT

An interesting proposal was made by the Italian Delegation that along the coast of every State the national jurisdiction in the air-space should for aerial purposes extend to 10 miles. The proposal did not comprise any extension of territorial waters generally, a matter which would have been outside the reference to the Commission under the terms of the Washington Resolution.

Detailed consideration of the proposal led the majority of the delegations to think that the suggestion is not practicable.

It seems inevitable that great confusion would follow from any rule which laid down a different width for the territorial airspace from that recognised for territorial waters, more particularly in the case of neutral countries for whose benefit and protection the proposal is put forward. As an example it is only necessary to take article 42, which obliges a neutral State to endeavour to compel a belligerent military aircraft entering its jurisdiction to alight. If the aircraft entered the jurisdiction from over the high seas, it would do so at 10 miles from the coast, and if in compliance with neutral orders it forthwith alighted on the water, it would then be outside the neutral jurisdiction, and the neutral State could not intern the aircraft.

On principle it would seem that the jurisdiction in the airspace should be appurtenant to the territorial jurisdiction enjoyed beneath it, and that in the absence of a territorial jurisdiction beneath, there is no sound basis for jurisdiction in the air.

Furthermore, it is felt that the obligation to enforce respect for neutral rights throughout a 10-mile belt would impose an increased burden on neutral Powers without adequate compensating advantages. Even with this wider belt it would still be easy for airmen fighting in the air to lose their bearings in the heat of the combat, and to encroach inadvertently on neutral jurisdiction. Lastly, the greater the distance from the coast, the more difficult it is for the position of an aircraft to be determined with precision, and the more frequent, therefore, will disputes become between belligerent and neutral States as to violation by the former's aircraft of the latter's jurisdiction.

With a view to meeting these criticisms, the Italian Delegation recast the proposal in a different shape, and suggested that in time of war a State, whether neutral or belligerent, should be authorized, if it so desired, and if it notified other Powers accordingly at the

beginning of the war, to extend its jurisdiction over the marginal air-belt to a distance of 10 miles at any given places along its coast. In this form the proposal would have placed no burden upon neutrals, because they would not have made use of it unless they considered it to their advantage. The anomalies of the divergent widths of the marginal air-belt and the marginal belt of sea would have remained.

After due consideration of the proposal, the majority of the Delegations felt unable to accept the proposal even in its amended form.

The Italian Delegation made the following statement:

1. It does not think it desirable to resume in Plenary Commission the discussion of a question which has on several occasions been considered in all the necessary detail during the meetings of the Sub-Committee.

2. Nevertheless, although the majority of the Delegations have already put forward views opposed to its proposal, it continues to believe in the importance of that proposal and in the necessity for its adoption and insertion in an international convention.

3. From the point of view both of belligerent and of neutral States, there are reasons of the highest juridical and technical importance which make it indispensable to allow each State the power of including in its jurisdiction the atmospheric space to a distance of 10 miles from its coast.

4. The difficulties resulting from the difference between the width of the marginal air-belt and the width of national territorial waters would not seem to be so serious as to render the Italian proposal unacceptable in practice.

5. In any case, there is no juridical obstacle to the fixing of the same width of space for the marginal air-belt as for territorial waters, the Italian Delegation being of opinion that international law, as generally recognised, contains no rule prohibiting a State from extending its territorial waters to a distance of 10 sea-miles from its coasts.

6. In conclusion, it urges that a question of such paramount importance should be reopened and placed upon the agenda of a conference in the near future.

COMPENSATION AND DISPUTES

The Netherlands Delegation submitted the following proposal:

The belligerent Party who, intentionally, or through negligence, violates the provisions of the present rules is liable to pay compensation in case damage is caused as a result of such violation. Such Party will be responsible for all acts committed by members of his armed forces.

If any dispute should arise on the subject which is not otherwise settled, such dispute shall be submitted for settlement to the Permanent Court of Arbitration, in conformity with Convention I of 1907, or to the Permanent Court of International Justice, in respect of such States as have accepted as compulsory *ipso facto* its jurisdiction.

The Commission approving the principle of indemnity, decided to incorporate the proposal in its general report, so as to bring it to the attention of the Governments.

VIOLATION OF THE RULES

No provision is made in the articles adopted as to the penalties to which persons violating the rules are to be subject. Some of the

provisions in the drafts laid before the Commission stated that persons violating the article in question were to be punishable with death, or were to be treated as war criminals. No such stipulation figures in the Land Warfare Regulations and it has seemed better to omit it. Its absence will not in any way prejudice the imposition of punishment on persons who are guilty of breaches of the laws of aerial warfare.

United States of America:
John Bassett Moore.
Albert Henry Washburn.
British Empire:
Rennell Rodd.
Cecil J. B. Hurst.
France:
A. de Lapradelle.
Basdevant.
Italy:
V. Rolandi Ricci.
Japan:
K. Matsui.
M. Matsuda.
Netherlands:
A. Struycken.
Van Eysinga.

The Secretary-General:
J. P. A. François.

The Hague, *February 19, 1923.*

CONVENTION BETWEEN NORWAY AND SWEDEN RELATING TO AIR NAVIGATION, SIGNED AT STOCKHOLM, MAY 26, 1923 [25]

His Majesty the King of Sweden and His Majesty the King of Norway, who have agreed to conclude a Convention relating to Air Navigation between Sweden and Norway, have for this purpose appointed as their plenipotentiaries:

His Majesty the King of Sweden:
His Excellency Carl Fredrik Wilhelm Hederstierna, His Majesty's Minister for Foreign Affairs;

His Majesty the King of Norway:
M. Johan Herman Wollebaek, His Majesty's Envoyé Extraordinary at Stockholm;

who, having duly received full powers, have agreed as follows:

[25] 1923 League of Nations Treaty Series, Vol. XVIII, p. 173. While the "Rules of Aerial Warfare" drawn up by the Commission of Jurists in 1923 have not been ratified, conventions somewhat similar to that of May 26, 1923, between Norway and Sweden have been ratified by several states since the World War.

ARTICLE 1

The Contracting States recognise each other's sovereignty in the air space above their territory and territorial waters.

ARTICLE 2

Each of the Contracting States undertakes in time of peace to accord freedom of innocent passage above its territory to private aircraft of the other State, under the terms laid down in this Agreement, and shall accord to the other State any privilege which may be granted to any non-Contracting State with reference to admission over its territory.

ARTICLE 3

The conditions laid down by one Contracting State regarding the granting of air navigation for its own aircraft shall also be valid as regards such aircraft belonging to the other State as may desire admission over its territory, provided the other State does not depart from the provisions of this Convention.

The Contracting States will endeavour to secure the greatest possible uniformity in the terms of these conditions.

ARTICLE 4

The Contracting States undertake to make provisions to ensure, in such manner as may be desirable according to the circumstances, that, should an aircraft belonging to one Contracting State be within the territory of the other, any claims on account of damage which may be put forward in the latter State, in accordance with law, by persons who have incurred damage either to themselves or to their property, except shipping, as a result of the use of the aircraft, shall be met by an insurance scheme.

The insurance shall be of the same nature, and of the same value, as is required by the State in which the flight takes place in the case of its own aircraft when flying in its own territory.

Even if one of the Contracting States does not require insurance payments from its own aircraft when flying over its own territory, aircraft belonging to the other Contracting State, when flying over the territory of the first-named State, shall be liable to pay the same insurance fees as when flying in their own country.

The Contracting States shall recognise as valid the insurance scheme in force in each country for this purpose in the case of insurance companies recognised by the State in question, provided that the company concerned in the case settles claims for compensation through its representative in the other State.

Article 5

Each Contracting State has the right, for military reasons or in the interest of public safety, to prohibit or restrict aircraft from flying over certain areas of its territory, under the penalties provided by its legislation, but on condition that the same provisions shall be laid down for this purpose for private aircraft belonging to the other Contracting State as are laid down for its own private aircraft.

The other State shall be informed of any regulations enacted for this purpose.

Article 6

Any aircraft belonging to one of the Contracting States which finds itself above a prohibited area in the other State, shall immediately give the signal of distress provided for in the airway regutions (Annex D), and shall land as soon as possible outside the prohibited area on one of the aerodromes in that State. The State authorities may, however, require an immediate landing on another place, provided that such landing can be effected without danger.

Article 7

An aircraft shall possess the nationality of the State on whose aircraft register it is entered in accordance with Regulation A, I. c.

A certificate of registration, issued by the competent authority of the country to which the aircraft belongs, shall be recognised as a valid proof of the nationality of the aircraft.

Article 8

An aircraft can only be entered on the aircraft register of one of the Contracting States if its owner is a national of that State. If the owner is an incorporated company belonging to the country in question, the headquarters of the company must be situated in that country and the president and at least two-thirds of the other members of the board of directors must be persons resident in that country, must possess civil rights and must be shareholders, and the company itself must fulfil the regulations customarily in force in that country.

The registration of any aircraft which ceases to comply with these conditions shall at once be cancelled.

Article 9

An aircraft cannot legally be registered in more than one of the Contracting States.

ARTICLE 10

The Contracting Parties shall exchange each month through the registration authorities concerned extracts from the register of aircraft including a list of the aircraft entered in or deleted from the register.

ARTICLE 11

Aircraft engaged in navigation between the Contracting States shall, in accordance with Annex A, be provided with such marks showing their nationality and registration as are necessary for purposes of identification during the flight, together with other marks or signs.

ARTICLE 12

Aircraft engaged in air navigation between the Contracting States shall, in accordance with Annex B, be provided with a certificate of air-worthiness, issued or recognised by the State whose nationality it possesses.

ARTICLE 13

The crew of an aircraft engaged in navigation between the Contracting States shall, in accordance with Annex E, be provided with certificates issued or recognised by the State whose marks of nationality the aircraft carries.

ARTICLE 14

Certificates of air-worthiness and the certificates of the crew, issued by one of the Contracting States in accordance with Annexes B and E, shall be recognised as valid by the other Contracting State.

In the case of one of its own nationals, however, either State may refuse to recognise a certificate issued or recognised by the other State should the flight be over its own territory.

ARTICLE 15

No aircraft belonging to one of the Contracting States may have a wireless apparatus except with the special permission of the State to which it belongs. Wireless apparatus shall not be used except by members of the crew provided with a special license for the purpose, issued by the State to which the aircraft belongs. Aircraft which fulfil these conditions are entitled to carry and use wireless apparatus when flying over the territory of the other Contracting State.

Either of the Contracting States can decree that certain kinds of aircraft shall carry wireless apparatus. The regulations provided for this purpose shall be the same for aircraft belonging to the State in question as for aircraft belonging to the other Contracting State.

Regulations for the use of wireless apparatus shall, so far as possible, be rendered uniform in the two Contracting States.

The air administrations of the two Contracting States may agree to draw up joint rules on this subject.

Article 16

Aircraft belonging to one of the Contracting States may cross the territory of the other Contracting State without landing. In such a case an aircraft shall follow the route prescribed by the State over which the flight takes place.

If required for reasons of public security, or if there should be any well-founded suspicion of an infraction of the law of the State over whose territory the flight takes place, aircraft may, by means of signals provided for in the air regulations (Annex D) be ordered to land at an aerodrome, or at some other place, if this may be done without danger.

Aircraft flying from the territory of one Contracting State to the territory of the other State shall also follow the route laid down by the State in question, and land at one of the aerodromes prescribed in the Customs Annex attached to this Convention.

For the establishment of international air-routes (by which is understood air-routes marked out with ground marks) the consent of the State over whose territory the air route passes is required. No tolls for the use of international air-routes already established may be claimed from aircraft belonging to the other Contracting State provided they do not land.

Article 17

For the institution of a permanent system of air-route connections for the conveyance of persons and goods for hire between the Contracting States, the permission of the State with which it is desired to establish a connection is required.

The Contracting States, however, undertake mutually to grant each others' aircraft the required permission, on condition that the aircraft of both States are allowed to use the air-route connections thus established on an equal footing.

The air-post shall be organised by special Agreement between the Contracting States.

Article 18

Each of the Contracting States shall have the right to reserve to its national aircraft the carriage of persons and goods for hire between two points within its own territory. Should other States be granted the right to such traffic, the Contracting States shall afford each other most-favoured-nation treatment in this respect.

If one of the Contracting States imposes restrictions of the kind referred to, which also affect the other State, its own aircraft may be subjected to the same restriction in the other Contracting State, even though the latter may not impose corresponding restrictions on other foreign aircraft.

Restrictions and reservations of the kind referred to shall be made public, and notice of them shall be given to the other State.

Article 19

During a passage, including landings, and such stoppage as may in the circumstances be necessary in the territory of one Contracting State, aircraft belonging to the other Contracting State shall be exempted from seizure on the grounds of infringement of patent rights, in virtue of a certificate of immunity, the scope of which shall, in the absence of a friendly agreement, be determined as soon as possible by the competent authority at the place in question.

Article 20

Aircraft belonging to the Contracting States shall, when flying between the two countries, be provided with:

(*a*) A certificate of registration in accordance with Annex A.

(*b*) A certificate of air-worthiness in accordance with Annex B.

(*c*) Certificates of the crew, in accordance with Annex E.

(*d*) A list of passengers.

(*e*) A bill of lading of any goods carried, in accordance with the Customs Annex attached to this Convention.

(*f*) Log-books, in accordance with Annex C.

(*g*) An attestation, issued by the Air Navigation Administration in the country to which the aircraft belongs, certifying that an insurance policy has been taken out in accordance with Article 4.

(*h*) If necessary, a special licence to carry wireless apparatus.

The aircraft's papers shall make it clear who is in command on board.

ARTICLE 21

The log-books shall be kept for two years after the last entry.

ARTICLE 22

Upon the departure or landing of an aircraft, the competent authorities of the Contracting States shall have the right to visit the aircraft and to verify the documents with which it must be provided.

ARTICLE 23

Aircraft belonging to one Contracting State may claim in the other State the same assistance on landing, and in case of distress, as aircraft belonging to that State.

With regard to salvage of aircraft wrecked at sea, the Contracting States shall apply, so far as is possible, the regulations in force for the salvage of ships.

ARTICLE 24

Any aerodrome in the Contracting States available for general use, upon payment of charges, by the aircraft of the country in question, shall also be open for the use of aircraft belonging to the other Contracting State.

The tariff rates and all other regulations for the use of such aerodromes shall be the same for aircraft belonging to the other Contracting State as for the aircraft of the State in which the aerodrome is situated.

ARTICLE 25

Each Contracting State undertakes to adopt measures to ensure that every aircraft flying above the limits of its territory, and that every aircraft bearing its marks of nationality, which finds itself within the territory of the Contracting State or on international territory, shall comply with the air regulations (Annex D); the State shall also undertake to prosecute all persons infringing these regulations.

ARTICLE 26

The carriage by aircraft of explosives and of arms and munitions of war between the Contracting States is forbidden.

ARTICLE 27

Each of the Contracting States may prohibit or regulate the carriage or use of photographic apparatus.

The Contracting States shall inform each other of such regulations.

ARTICLE 28

As a measure of public safety, the carriage of objects other than those mentioned in Articles 26 and 27 may be subjected to restrictions by each Contracting State.

The Contracting States shall inform each other of such regulations.

ARTICLE 29

All restrictions of the kind mentioned in Article 28 shall be applied equally to private aircraft belonging to the country in question and private aircraft belonging to the other Contracting State.

ARTICLE 30

All aircraft other than military and similar aircraft which are employed exclusively on State service, such as Customs, post and police aircraft, shall be treated as private aircraft and as such shall be subject to all the provisions of the present Convention.

ARTICLE 31

Every aircraft commanded by a person in military service detailed for the purpose is deemed to be a military aircraft.

ARTICLE 32

Military aircraft from one Contracting State may neither fly over nor land within the territory of the other Contracting State without special authorisation. In case of such authorisation the military aircraft shall enjoy, in the absence of a special stipulation, the privileges of ex-territoriality which are customarily accorded to foreign ships of war. A military aircraft which is forced to land and which does not possess authorisation to do so, or which is required or compelled to land cannot by reason thereof acquire right to ex-territoriality.

ARTICLE 33

Further negotiations shall be pursued between the Contracting parties to determine in what cases Customs and police aircraft can be authorised to cross the frontier. They shall in no case be entitled to the privilege of ex-territoriality.

ARTICLE 34

The provisions of this Convention shall be supplemented by Annexes *a* to *e*, which shall come into force simultaneously with the Convention and shall be valid for the same period as the latter.

These annexes may be modified and amplified by negotiations between the air administrations of the Contracting States.

Article 35

Each Contracting State undertakes to cooperate as far as possible in international measures concerning:

(*a*) Meteorological investigations;

(*b*) The publication of standard aeronautical maps and the establishment of a uniform system of ground marks for flying;

(*c*) The use of wireless in air navigation and the establishment of the necessary wireless stations.

The air administrations of the Contracting States may negotiate directly with each other regarding joint regulations for the matters referred to in (*a*) and (*b*).

Article 36

The air administrations of the Contracting States shall, except in cases which they have authority to decide by the terms of the present Convention, receive and elaborate proposals for amendments to this Convention, and shall further deal with questions affecting air navigation between the Contracting States.

Article 37

The Contracting States undertake to accord to each other's aircraft arriving at, departing from or traversing their respective countries, the same treatment in every respect as they accord to their own aircraft and to treat any cargo, lawfully carried by such aircraft, in the same manner as if it were carried by their own aircraft.

Each one of the Contracting States undertakes to accord to the other State the same privileges as they concede to any third State in regard to the matters referred to herein.

General regulations regarding the relations between the Customs authorities and aircraft are given in the Annex, which is to be regarded as an integral part of this Convention.

Article 38

An aircraft, together with the crew, passengers, merchandise, food provisions and goods which it carries shall, subject to the provisions of this Convention, conform to the laws and other regulations in force in regard to air navigation, customs, taxes and the movement of persons and goods in the country in which the aircraft finds itself, as also to such other laws and regulations as may affect the matter in question.

ARTICLE 39

In case of war the provisions of this Convention shall in no way limit the freedom of action of the Contracting States in their capacity as belligerents or as neutrals.

ARTICLE 40

Disputes between the Contracting States affecting the interpretation or application of this Convention and of the annexes thereto shall, if they cannot be settled by direct negotiations, be referred for decision to the Permanent Court of International Justice instituted by the League of Nations.

ARTICLE 41

This Convention shall be ratified and the ratifications shall be exchanged as early as possible at Stockholm.

The Convention shall come into force with effect from the date of the exchange of ratifications. It may be denounced at six months notice from the Contracting States.

ARTICLE 42

In faith whereof the respective plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done at Stockholm in duplicate on May 26, 1923.

CARL HEDERSTIERNA.
J. H. WOLLEBAEK.

GENEVA PROTOCOL, 1924

PROTOCOL FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES [26]

[Approved by the Assembly of the League of Nations, October 2, 1924]

Animated by the firm desire to ensure the maintenance of general peace and the security of nations whose existence, independence or territories may be threatened;

Recognizing the solidarity of the members of the international community;

Asserting that a war of aggression constitutes a violation of this solidarity and an international crime;

Desirous of facilitating the complete application of the system provided in the Covenant of the League of Nations for the pacific settlement of disputes between states and of ensuring the repression of international crimes; and

For the purpose of realizing, as contemplated by Article 8 of the Covenant, the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations;

The undersigned, duly authorized to that effect, agree as follows:

---

[26] League of Nations doc. Annexe II â A. 135, 1924. See also protocol with the general report of the first and third committees of the Assembly, and the resolutions adopted by the Assembly on Oct. 2, 1924, British Parliamentary Paper, Misc. No. 18 (1924).

This protocol has not been ratified, though it has received much discussion.

At the twenty-third session of the Council of the League of Nations, March 12–13, 1925, the following resolution was adopted by the Council:

"The Council, having heard the statement of the representative of the British Empire on the Protocol for the Pacific Settlement of International Disputes, and also the declarations of the other Members of the Council;

"Considering that the fifth Assembly, by a resolution unanimously adopted on October 2nd, 1924, decided to recommend to the earnest attention of all the Members of the League the acceptance of the said draft Protocol, and that in the same resolution it invited the Council to undertake certain preparatory work provided for in various articles of the draft Protocol;

"And considering that the Council decided on October 28th, 1924, to undertake itself the work of preparing for the Conference on the Reduction of Armaments, which it had originally asked the Council Committee to undertake at a meeting to be held on November 17th, 1924:

"Decides:

"(*a*) To refer to the sixth Assembly the above-mentioned declarations of the representative of the British Empire and the other Members of the Council, together with any declarations on the same subject which may be communicated to it by the Governments of the Members of the League, and instructs the Secretary-General to place this question forthwith upon the agenda of the sixth Assembly (1925);

"(*b*) To postpone the work of preparation which it had decided to undertake until the sixth Assembly has given a decision on the question submitted to it."

Article I

The signatory states undertake to make every effort in their power to secure the introduction into the Covenant of amendments on the lines of the provisions contained in the following articles.

They agree that, as between themselves, these provisions shall be binding as from the coming into force of the present protocol and that, so far as they are concerned, the Assembly and the Council of the League of Nations shall thenceforth have power to exercise all the rights and perform all the duties conferred upon them by the protocol.

Article 2

The signatory states agree in no case to resort to war either with one another or against a state which, if the occasion arises, accepts all the obligations hereinafter set out, except in case of resistance to acts of aggression or when acting in agreement with the Council or the Assembly of the League of Nations in accordance with the provisions of the Covenant and of the present protocol.

Article 3

The signatory states undertake to recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Permanent Court of International Justice in the cases covered by paragraph 2 of Article 36 of the Statute of the Court, but without prejudice to the right of any state, when acceding to the special protocol provided for in the said article and opened for signature on December 16, 1920, to make reservations compatible with the said clause.

Accession to this special protocol, opened for signature on December 16, 1920, must be given within the month following the coming into force of the present protocol.

States which accede to the present protocol, after its coming into force, must carry out the above obligation within the month following their accession.

Article 4

With a view to render more complete the provisions of paragraphs 4, 5, 6, and 7 of Article 15 of the Covenant, the signatory states agree to comply with the following procedure:

1. If the dispute submitted to the Council is not settled by it as provided in paragraph 3 of the said Article 15, the Council shall endeavor to persuade the parties to submit the dispute to judicial settlement or arbitration.

2. (*a*) If the parties cannot agree to do so, there shall, at the request of at least one of the parties, be constituted a Committee of Arbitrators. The Committee shall so far as possible be constituted by agreement between the parties.

(*b*) If within the period fixed by the Council the parties have failed to agree, in whole or in part, upon the number, the names and the powers of the arbitrators and upon the procedure, the Council shall settle the points remaining in suspense. It shall with the utmost possible despatch select in consultation with the parties the arbitrators and their President from among persons who by their nationality, their personal character and their experience, appear to it to furnish the highest guarantees of competence and impartiality.

(*c*) After the claims of the parties have been formulated, the Committee of Arbitrators, on the request of any party, shall through the medium of the Council request an advisory opinion upon any points of law in dispute from the Permanent Court of International Justice, which in such case shall meet with the utmost possible despatch.

3. If none of the parties asks for arbitration, the Council shall again take the dispute under consideration. If the Council reaches a report which is unanimously agreed to by the members thereof other than the representatives of any of the parties to the dispute, the signatory states agree to comply with the recommendations therein.

4. If the Council fails to reach a report which is concurred in by all its members, other than the representatives of any of the parties to the dispute, it shall submit the dispute to arbitration. It shall itself determine the composition, the powers and the procedure of the Committee of Arbitrators and, in the choice of the arbitrators, shall bear in mind the guarantees of competence and impartiality referred to in paragraph 2 (*b*) above.

5. In no case may a solution, upon which there has already been a unanimous recommendation of the Council accepted by one of the parties concerned, be again called in question.

6. The signatory states undertake that they will carry out in full good faith any judicial sentence or arbitral award that may be rendered and that they will comply, as provided in paragraph 3, above, with the solutions recommended by the Council. In the event of a state failing to carry out the above undertakings, the Council shall exert all its influence to secure compliance therewith. If it fails therein, it shall propose what steps should be taken to give effect thereto, in accordance with the provision contained at the end of Article 13 of the Covenant. Should a state in disregard of the above undertakings resort to war, the sanctions provided for by Article 16

of the Covenant, interpreted in the manner indicated in the present protocol, shall immediately become applicable to it.

7. The provisions of the present article do not apply to the settlement of disputes which arise as the result of measures of war taken by one or more signatory states in agreement with the Council or the Assembly.

Article 5

The provisions of paragraph 8 of Article 15 of the Covenant shall continue to apply in proceedings before the Council.

If in the course of an arbitration, such as is contemplated by Article 4 above, one of the parties claims that the dispute, or part thereof, arises out of a matter which by international law is solely within the domestic jurisdiction of that party, the arbitrators shall on this point take the advice of the Permanent Court of International Justice through the medium of the Council. The opinion of the Court shall be binding upon the arbitrators, who, if the opinion is affirmative, shall confine themselves to so declaring in their award.

If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the state, this decision shall not prevent consideration of the situation by the Council or by the Assembly under Article 11 of the Covenant.

Article 6

If in accordance with paragraph 9 of Article 15 of the Covenant a dispute is referred to the Assembly, that body shall have for the settlement of the dispute all the powers conferred upon the Council as to endeavoring to reconcile the parties in the manner laid down in paragraphs 1, 2 and 3 of Article 15 of the Covenant and in paragraph 1 of Article 4 above.

Should the Assembly fail to achieve an amicable settlement:

If one of the parties asks for arbitration, the Council shall proceed to constitute the Committee of Arbitrators in the manner provided in subparagraphs (*a*), (*b*) and (*c*) of paragraph 2 of Article 4 above.

If no party asks for arbitration, the Assembly shall again take the dispute under consideration and shall have in this connection the same powers as the Council. Recommendations embodied in a report of the Assembly, provided that it secures the measure of support stipulated at the end of paragraph 10 of Article 15 of the Covenant, shall have the same value and effect, as regards all matters dealt with in the present protocol, as recommendations embodied in a report of the Council adopted as provided in paragraph 3 of Article 4 above.

If the necessary majority cannot be obtained, the dispute shall be submitted to arbitration and the Council shall determine the composition, the powers and the procedure of the Committee of Arbitrators as laid down in paragraph 4 of Article 4.

Article 7

In the event of a dispute arising between two or more signatory states, these states agree that they will not, either before the dispute is submitted to proceedings for pacific settlement or during such proceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments provided for by Article 17 of the present protocol, nor will they take any measure of military, naval, air, industrial or economic mobilisation, nor, in general, any action of a nature likely to extend the dispute or render it more acute.

It shall be the duty of the Council, in accordance with the provisions of Article 11 of the Covenant, to take under consideration any complaint as to infraction of the above undertakings which is made to it by one or more of the states parties to the dispute. Should the Council be of opinion that the complaint requires investigation, it shall, if it deems it expedient, arrange for enquiries and investigations in one or more of the countries concerned. Such enquiries and investigations shall be carried out with the utmost possible despatch and the signatory states undertake to afford every facility for carrying them out.

The sole object of measures taken by the Council as above provided is to facilitate the pacific settlement of disputes and they shall in no way prejudge the actual settlement.

If the result of such enquiries and investigations is to establish an infraction of the provisions of the first paragraph of the present article, it shall be the duty of the Council to summon the state or states guilty of the infraction to put an end thereto. Should the state or states in question fail to comply with such summons, the Council shall declare them to be guilty of a violation of the Covenant or of the present protocol, and shall decide upon the measures to be taken with a view to end as soon as possible a situation of a nature to threaten the peace of the world.

For the purposes of the present article decisions of the Council may be taken by a two-thirds majority.

Article 8

The signatory states undertake to abstain from any act which might constitute a threat of aggression against another state.

If one of the signatory states is of opinion that another state is making preparations for war, it shall have the right to bring the matter to the notice of the Council.

The Council, if it ascertains that the facts are as alleged, shall proceed as provided in paragraphs 2, 4, and 5 of Article 7.

Article 9

The existence of demilitarized zones being calculated to prevent aggression and to facilitate a definite finding of the nature provided for in Article 10 below, the establishment of such zones between states mutually consenting thereto is recommended as a means of avoiding violations of the present protocol.

The demilitarized zones already existing under the terms of certain treaties or conventions, or which may be established in future between states mutually consenting thereto, may at the request and at the expense of one or more of the conterminous states, be placed under a temporary or permanent system of supervision to be organised by the Council.

Article 10

Every state which resorts to war in violation of the undertakings contained in the Covenant or in the present protocol is an aggressor. Violation of the rules laid down for a demilitarized zone shall be held equivalent to resort to war.

In the event of hostilities having broken out, any state shall be presumed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare:

1. If it has refused to submit the dispute to the procedure of pacific settlement provided by Articles 13 and 15 of the Covenant as amplified by the present protocol, or to comply with a judicial sentence or arbitral award or with a unanimous recommendation of the Council, or has disregarded a unanimous report of the Council, a judicial sentence or an arbitral award recognizing that the dispute between it and the other belligerent state arises out of a matter which by international law is solely within the domestic jurisdiction of the latter state; nevertheless, in the last case the state shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article 11 of the Covenant.

2. If it has violated provisional measures enjoined by the Council for the period while the proceedings are in progress as contemplated by Article 7 of the present protocol.

Apart from the cases dealt with in paragraphs 1 and 2 of the present Article, if the Council does not at once succeed in deter-

mining the aggressor, it shall be bound to enjoin upon the belligerents an armistice, and shall fix the terms, acting, if need be, by a two-thirds majority and shall supervise its execution.

Any belligerent which has refused to accept the armistice or has violated its terms shall be deemed an aggressor.

The Council shall call upon the signatory states to apply forthwith against the aggressor the sanctions provided by Article 11 of the present protocol, and any signatory state thus called upon shall thereupon be entitled to exercise the rights of a belligerent.

Article 11

As soon as the Council has called upon the signatory states to apply sanctions, as provided in the last paragraph of Article 10 of the present protocol, the obligations of the said states, in regard to the sanctions of all kinds mentioned in paragraphs 1 and 2 of Article 16 of the Covenant, will immediately become operative in order that such sanctions may forthwith be employed against the aggressor.

Those obligations shall be interpreted as obliging each of the signatory states to coöperate loyally and effectively in support of the Covenant of the League of Nations, and in resistance to any act of aggression, in the degree which its geographical position and its particular situation as regards armaments allow.

In accordance with paragraph 3 of Article 16 of the Covenant the signatory states give a joint and several undertaking to come to the assistance of the state attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened state.

If both parties to the dispute are aggressors within the meaning of Article 10, the economic and financial sanctions shall be applied to both of them.

Article 12

In view of the complexity of the conditions in which the Council may be called upon to exercise the functions mentioned in Article 11 of the present protocol concerning economic and financial sanctions, and in order to determine more exactly the guarantees afforded by the present protocol to the signatory states, the Council shall forthwith invite the economic and financial organizations of the League of Nations to consider and report as to the nature of the steps to be

taken to give effect to the financial and economic sanctions and measures of cooperation contemplated in Article 16 of the Covenant and in Article 11 of his protocol.

When in possession of this information, the Council shall draw up through its competent organs:

1. Plans of action for the application of the economic and financial sanctions against an aggressor state;

2. Plans of economic and financial coöperation between a state attacked and the different states assisting it; and shall communicate these plans to the members of the League and to the other signatory states.

Article 13

In view of the contingent military, naval and air sanctions provided for by Article 16 of the Covenant and by Article 11 of the present protocol, the Council shall be entitled to receive undertakings from states determining in advance the military, naval and air forces which they would be able to bring into action immediately to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present protocol.

Furthermore, as soon as the Council has called upon the signatory states to apply sanctions, as provided in the last paragraph of Article 10 above, the said states may, in accordance with any agreements which they may previously have concluded, bring to the assistance of a particular state, which is the victim of aggression, their military, naval and air forces.

The agreements mentioned in the preceding paragraph shall be registered and published by the Secretariat of the League of Nations. They shall remain open to all states members of the League which may desire to accede thereto.

Article 14

The Council shall alone be competent to declare that the application of sanctions shall cease and normal conditions be reestablished.

Article 15

In conformity with the spirit of the present protocol, the signatory states agree that the whole cost of any military, naval or air operations undertaken for the repression of an aggression under the terms of the protocol, and reparation for all losses suffered by individuals, whether civilians or combatants, and for all material damage caused by the operations of both sides, shall be borne by the aggressor state up to the extreme limit of its capacity.

Nevertheless, in view of Article 10 of the Covenant, neither the territorial integrity nor the political independence of the aggressor

state shall in any case be affected as the result of the application of the sanctions mentioned in the present protocol.

Article 16

The signatory states agree that in the event of a dispute between one or more of them and one or more states which have not signed the present protocol and are not members of the League of Nations, such non-member states shall be invited, on the conditions contemplated in Article 17 of the Covenant, to submit, for the purpose of a pacific settlement, to the obligations accepted by the states signatories of the present protocol.

If the state so invited, having refused to accept the said conditions and obligations, resorts to war against a signatory state, the provisions of Article 16 of the Covenant, as defined by the present protocol, shall be applicable against it.

Article 17

The signatory states undertake to participate in an International Conference for the Reduction of Armaments which shall be convened by the Council and shall meet at Geneva on Monday, June 15, 1925. All other states, whether members of the League or not, shall be invited to this Conference.

In preparation for the convening of the Conference, the Council shall draw up with due regard to the undertakings contained in Articles 11 and 13 of the present protocol a general programme for the reduction and limitation of armaments, which shall be laid before the Conference and which shall be communicated to the governments at the earliest possible date, and at the latest three months before the Conference meets.

If by May 1, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference until a sufficient number of ratifications have been deposited.

Article 18

Wherever mention is made in Article 10, or in any other provision of the present protocol, of a decision of the Council, this shall be understood in the sense of Article 15 of the Covenant, namely that the votes of the representatives of the parties to the dispute shall not be counted when reckoning unanimity or the necessary majority.

ARTICLE 19

Except as expressly provided by its terms, the present protocol shall not affect in any way the rights and obligations of members of the League as determined by the Covenant.

ARTICLE 20

Any dispute as to the interpretation of the present protocol shall be submitted to the Permanent Court of International Justice.

ARTICLE 21

The present protocol, of which the French and English texts are both authentic, shall be ratified.

The deposit of ratifications shall be made at the Secretariat of the League of Nations as soon as possible.

States of which the seat of government is outside Europe will be entitled merely to inform the Secretariat of the League of Nations that their ratification has been given; in that case, they must transmit the instrument of ratification as soon as possible.

So soon as the majority of the permanent members of the Council and ten other members of the League have deposited or have effected their ratifications, a *procès-verbal* to that effect shall be drawn up by the Secretariat.

After the said *procès-verbal* has been drawn up, the protocol shall come into force as soon as the plan for the reduction of armaments has been adopted by the Conference provided for in Article 17.

If within such period after the adoption of the plan for the reduction of armaments as shall be fixed by the said Conference, the plan has not been carried out, the Council shall make a declaration to that effect; this declaration shall render the present protocol null and void.

The grounds on which the Council may declare that the plan drawn up by the International Conference for the Reduction of Armaments has not been carried out, and that in consequence the present protocol has been rendered null and void, shall be laid down by the Conference itself.

A signatory state which, after the expiration of the period fixed by the Conference, fails to comply with the plan adopted by the Conference, shall not be admitted to benefit by the provisions of the present protocol.

In faith whereof the undersigned, duly authorized for this purpose, have signed the present protocol.

Done at Geneva, on the second day of October, nineteen hundred and twenty-four, in a single copy, which will be kept in the archives of the Secretariat of the League and registered by it on the date of its coming into force.

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